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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1930

No. 91

J. M. NEAR, APPELLANT,

vs.

THE STATE OF MINNESOTA EX REL. FLOYD B. OLSON, COUNTY ATTORNEY OF HENNEPIN COUNTY, MINNESOTA

APPEAL FROM THE SUPREME COURT OF THE STATE OF MINNESOTA

FILED APRIL 25, 1930

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JULY 14, 1930

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State of Minnesota,
In Supreme Court.

1929.

STATE OF MINNESOTA, County of Hennepin. DISTRICT COURT, Fourth Judicial District.

STATE OF MINNESOTA EX REL. FLOYD B. OLSON, County Attorney of Hennepin County, Minnesota, Plaintiff,

vs.

HOWARD A. GUILFORD, J. M. NEAR and all other persons or parties unknown claiming any right, title, estate, lien or interest in the publication described in the complaint herein, or its sale and distribution, Defendants.

ORDER TO SHOW CAUSE.

Upon the verified complaint in this court and upon motion of the attorney for plaintiff,

IT IS ORDERED, that the above named defendants show cause before a judge of said court at chambers, at the court house in the city of Minneapolis, on Monday, the 19th day of December, 1927, at ten o'clock in the forenoon of said day or as soon thereafter as counsel can be heard, why a temporary injunction should not issue restraining said defendants Howard A. Guilford and J. M. Near and divers and sundry other persons whose names are to the plaintiff unknown, from producing, publishing, editing, cir-

culating, having in their possession, selling and giving away a malicious, scandalous and defamatory publication known as The Saturday Press, or known by any other name, in the state of Minnesota. And it is further

ORDERED that said defendants be in the meantime restrained and they are hereby forbidden to produce, edit, publish, circulate, have in their possession, sell or give away any editions of said The Saturday Press from September 24, 1927, to November 19, 1927, inclusive. And it is further

ORDERED that said defendants Howard A. Guilford and J. M. Near and divers and sundry other persons whose names are to the plaintiff unknown, be in the meantime restrained and they are hereby forbidden to produce, edit, publish, circulate, have in their possession, sell or give away any future editions of said The Saturday Press. And it is further

ORDERED that said defendants Howard A. Guilford and J. M. Near and divers and sundry other persons whose names are to the plaintiff unknown, be in the meantime restrained and they are hereby forbidden to produce, edit, publish, circulate, have in their possession, sell or give away any publication known by any other name whatsoever containing malicious, scandalous and defamatory matter of the kind alleged in plaintiff's complaint herein or otherwise. And it is further

ORDERED that removal or mutilation of this order or any copy thereof which shall be posted by the sheriff or officer serving this order while this order shall remain in effect, or a violation of any of the provisions of this order, shall constitute a contempt of court.

Dated November 22, 1927.

MATHIAS BALDWIN, Judge.

(Title of Cause.)

NOTICE.

To the above named defendants:

You, and each of you, will please take notice that before a judge of said District Court, in chambers, at the court house, in the city of Minneapolis, said Hennepin county, on Monday the 19th day of December, 1927, at ten o'clock in the forenoon of said day, or as soon thereafter as counsel can be heard, the above named plaintiff will move said court for an order granting a temporary injunction in this action, restraining the above named defendants Howard A. Guilford and J. M. Near from producing, publishing, editing, circulating, having in their possession, selling and giving away a malicious, scandalous and defamatory publication known as The Saturday Press or known by any other name. Said motion will be based on the complaint herein filed and herewith served upon you and upon such evidence on the part of the state as is provided by law.

Dated November 21, 1927.

Respectfully,

FLOYD B. OLSON,
County Attorney,
Attorney for Plaintiff,
400 Court House,
Minneapolis, Minnesota.

(Title of Cause.)

SUMMONS.

The State of Minnesota to the above named defendants:

You, and each of you, are hereby summoned and required to answer the complaint of the plaintiff in the above entitled action, a copy of which is hereto annexed and herewith

10 served upon you, and to serve a copy of your answer to the said complaint on the subscribers, at their office in the city of Minneapolis, in said county of Hennepin, at or before the time set for hearing the motion for temporary injunction as fixed in the hereto attached "Order to Show Cause"; and if you fail to answer said complaint within the time aforesaid, the plaintiff in this action will apply to the court for the relief demanded in said complaint, together with plaintiff's costs and disbursements in this action.

Dated November 21st, 1927.

FLOYD B. OLSON,
11 County Attorney,
Attorney for Plaintiff,
400 Court House,
Minneapolis, Minnesota.

(Title of Cause.)

COMPLAINT.

Now comes the above named plaintiff and for complaint against the above named defendants alleges and shows to the court:

12 1. That during all the times hereinafter mentioned the said relator, Floyd B. Olson, was and now is the duly elected, qualified and acting county attorney of Hennepin county, Minnesota, and a citizen of the city of Minneapolis, in said county and state.

2. That in the city of Minneapolis, Hennepin county, Minnesota, the defendants Howard A. Guilford, J. M. Near and divers and sundry other persons whose names are to the plaintiff unknown, now are and continually since September 24th, 1927, have been engaged in the business of regularly and customarily producing, editing, publishing, circu-

lating, having in their possession, selling and giving away a malicious scandalous and defamatory newspaper, magazine and periodical, now and during all of said time known as The Saturday Press. 13

3. That on said September 24th, 1927, said defendants did publish and circulate an edition of said publication which was largely devoted to malicious, scandalous and defamatory articles concerning one Charles G. Davis, and other persons, all of which more fully appears in Exhibit "1," which is hereto attached and made a part hereof as though pleaded herein.

4. That on October 1, 1927, said defendants did publish and circulate an edition of said publication which was largely devoted to malicious, scandalous and defamatory articles concerning said Charles G. Davis, and other persons, all of which more fully appears in Exhibit "2," which is hereto attached and made a part hereof as though pleaded herein. 14

5. That on October 8th, 1927, said defendants did publish and circulate an edition of said publication which was largely devoted to malicious, scandalous and defamatory articles concerning one Frank W. Brunskill, and other persons, all of which more fully appears in Exhibit "3," which is hereto attached and made a part hereof as though pleaded herein. 15

6. That on October 15th, 1927, said defendants did publish and circulate an edition of said publication which was largely devoted to malicious, scandalous and defamatory articles concerning said Frank W. Brunskill, said Charles G. Davis, and other persons, all of which more fully appears in Exhibit "4," which is hereto attached and made a part hereof as though pleaded herein.

16 7. That on October 22, 1927, said defendants did publish and circulate an edition of said publication which was largely devoted to malicious, scandalous and defamatory articles concerning said Frank W. Brunskill, the Minneapolis Tribune, a Minnesota corporation, the Minneapolis Journal, a Minnesota corporation, and other persons, all of which more fully appears in Exhibit "5," which is hereto attached and made a part hereof as though pleaded herein.

8. That on October 29th, 1927, said defendants did publish and circulate an edition of said publication which was largely devoted to malicious, scandalous and defamatory
17 articles concerning said Frank W. Brunskill, and other persons, all of which more fully appears in Exhibit "6," which is hereto attached and made a part hereof as though pleaded herein.

9. That on November 5th, 1927, said defendants did publish and circulate an edition of said publication which was largely devoted to malicious, scandalous and defamatory articles concerning said Frank W. Brunskill and other persons, all of which more fully appears in Exhibit "7," which is hereto attached and made a part hereof as though pleaded
18 herein.

10. That on November 12, 1927, said defendants did publish and circulate an edition of said publication which was largely devoted to malicious, scandalous and defamatory articles concerning one Melvin C. Passolt, one Floyd B. Olson, and other persons, all of which more fully appears in Exhibit "8," which is hereto attached and made a part hereof as though pleaded herein.

11. That on November 19, 1927, said defendants did publish and circulate an edition of said publication which was largely devoted to malicious, scandalous and defama-

tory articles concerning one George E. Leach, said Charles G. Davis, said Frank W. Brunskill, said Floyd B. Olson, the Jewish Race, the members of the Grand Jury of Hennepin county, Minnesota, duly impaneled and sworn on November 7th, 1927, and now holding office, and other persons, all of which more fully appears in Exhibit "9," which is hereto attached and made a part hereof as though pleaded herein. 19

12. That the said publication, as heretofore alleged, by the said defendants under said name of The Saturday Press, or any other name, constitutes a public nuisance under the laws of the state of Minnesota. 20

Wherefore, plaintiff prays that this court make and enter its decree and judgment:

1. That said nuisance be abated.

2. That said defendants, Howard A. Guilford and J. M. Near, and all other persons or parties unknown, claiming any right, title, estate, lien or interest in said publication known as The Saturday Press, or by any other name, or in its sale and distribution, be perpetually enjoined and restrained from further conducting said nuisance under the name and title of said The Saturday Press, or under any other name or title. 21

Plaintiff further prays that pending the determination of this action this court issue a restraining order restraining the defendants and all other persons from conducting and maintaining said nuisance under the name of The Saturday Press, or any other name, and that pending the determination of this action this court issue its temporary injunction restraining the defendants, and all other persons, from conducting and maintaining said nuisance under the name of The Saturday Press, or any other name, until the

22 further order of the court herein; and plaintiff further prays that it have judgment for its costs and disbursements in this suit.

FLOYD B. OLSON,
County Attorney,
Attorney for Plaintiff,
400 Court House,
Minneapolis, Minnesota.

(Duly verified.)

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23 EXHIBIT 1.

THE SATURDAY PRESS.

Vol 1, No. 1 Minneapolis, Minn., Sept. 24, 1927 Price 5 Cents

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FOLLOWING A CUSTOM

It is always customary, in the launching of a new publication, to announce the policy of the publication, and wishing to conform to the customs and practices of the knights of the fourth estate, we will take a small amount of space and acquaint our readers with the whys and wherefores of The Saturday Press.

The names of the publishers of this journal of ultra intellectual epics are not unknown to readers of the Twin Cities and the Northwest. Unfortunately we are both former editors of a local scandal sheet, a distinction which we regret. We at least have the satisfaction of knowing that no blackmail ever dirtied our hands, although we are well aware that the taint of blackmail has sullied our reputations. We are stating this frankly, as we both have reason to know that this is a fact.

It has been many years since either of us had any connection with the sheet in question, but the stigma of its subsequent operation has smeared us with its stick. The local publication in question passed into the hands of an unscrupulous newspaper man, a man so devoid of moral courage that he hasn't the nerve to publish his paper him-

self—he prefers to lease it out to others to assume the responsibility, while he engineers the numerous blackmail deals that are committed by the firm, and waxes fat from the profits of gambling houses he has been interested in for several years past, said gambling houses being permitted through the social prestige (?) of the Twin City Reporter about the City Hall.

Hundreds of victims have been blackmailed by the publication mentioned, and thousands of people wish to see it washed from the streets of Minneapolis, but none of them dare incur the ill will of the publication, and its subsequent character assassination. There are two citizens who dare, and who propose to exterminate the Twin City Reporter, and they are the publishers of The Saturday Press. That is our local policy.

We are in possession at the present time of considerable information regarding the blackmail operations of this publication, but a great many of the instances concern people whose homes would be wrecked and the purpose for which they paid money defeated, were their better halves to discover their misfortune. Those instances we will not use. But we ask a favor of our readers. Will you notify this publication by mail of instances where single men, acquaintances of yours, have been blackmailed? Your communication will be kept confidential, and we further assure you that there is no way in which the name of your friend's companion may be exposed to publicity. We will interview these victims, but we assure our readers that we will not publish anything of this nature whatever.

In closing, let us state that we heartily regret ever in years gone past, having penned a line about the amourous misadventures of our fellow men, and we apologize to the

public at large for each and every line. We intend to operate this publication for the good of our community, and if we fail in our intention, then before God it will never be said that we operated it in any way to injure the children of the community. 31

H. A. GUILFORD
J. M. NEAR

MY DEAR TOM:

You are due for an oldfashioned political licking and I hereby dedicate myself to that job. Dad used to tell me, as he spread me firmly across his knee: "My boy, I hate to do it, but it's for your own good." I think he meant it —I know I got it and I have a hunch I deserved it. Ditto you. I mean it. You haven't got it yet, but it's coming fast—quick. 32

But this will be no "frame." There will be no wet-dry combination to get you. It will be a fair, square, knock-down-and-drag-out social affair. If you can't be licked with your own record, you deserve to win, but you are licked, Tom, when the people know you for the four-flusher you have been since 1914, and they're going to know. 33

—The Old Man.

One trouble with teeth in the prohibition law is that they require so much gold filling—Seattle Argus.

JUST KIDDING

A Marinette, Wisconsin, lady starts legal action against 13 bendors of verboten hooch wherein she demands the return of twenty-two thousand dollars which she alleges friend hubby squandered for ha-ha liquid. She also intimates that

34 the head of the family failed to provide the necessary fodder for his own household. How could he with the combined membership of 13 bootlegger families clawing at his bank roll? Some women are so selfish and inconsiderate!

Our small game hunting season opened with the usual results: Three huntsmen went out in high spirits and came back in a hearse. Aside from that and a few unrecorded shooting, a "pleasant time was had by all"—except the ducks.

35

I wonder if Mr. Backus had advocated the appointment of Tom instead of "Mag" on that International Boundary Commission if Tommy would have been so vituperative in his attack on the three million income tax? A question, merely. Now, hear the "you're a liar" chorus start tuning in. Well, come on girls, chirp up.

A San Diego, Calif., rancher has announced himself a candidate to succeed Mr. Coolidge upon a platform declar-
36 ing for five working days per week with a Saturday holiday. He doesn't say what he is going to do with the seventh day but knowing something of San Diegoans, I have a hunch he will declare that a Tia Juana festival as all good San Diegoans now do.

Exercising his riprarian rights to their fullest extent, a sobbing stick-up gent held the biting end of a six-gun against the short ribs of a service station proprietor at Crookston and deducted "between five and six dollars" from the pockets of his victim. These weeping brothers with blue-barreled

sticks and tales of "whoa" must be getting granite-hearted when they take "between" change off a gasoline highwayman! 37

Four little dry agents gave a Leonardtown, Md., farmer the rush act before going through the formality of securing a warrant of search. As a result of their indiscretion, three of them are out under heavy bond for depriving the state of Maryland of a loyal taxpayer with a fusilade of slugs instead of "by due process of law," the surgeons of a Leonardtown hospital are fishing around in the anatomy of the fourth dry agent trying to locate a flock of wild buckshot that the old farmer spilled into him with the aid of an ancient muzzle-loader. And it was Lowman, was it not, who said prohibition would be a howling success in another fifty years? 38

Experts declare that the rye crop of Minnesota will average at least one hundred gallons per acre, with corn grading No. 4, a few gallons lower.

Mr. Quale's "Musketeers" recently made a brilliant dash into the Polish section of the city and returned to camp with such a galaxy of "Z's" that the last letter of the alphabet on every daily paper linotype machine looked like it had been struck with a switch engine. Hop around a little, Quale, and perhaps you will hit more gallon marks and not so many half pints. 39

A gentleman at Hugo, Minn., anxious to assist in pushing the prohibition barge along, took the civil service examination for a position on the enforcement squad but before his

commission arrived, he was arrested when agents found six gallons of giggle lotion and 50 gallons of Hienie's delight in his cellar. Most of them wait until the sheepskin becomes acclimated before flirting with the bung-starter.

A St. Paul man, growing weary of life, leaned his head up against the muzzle of a forty-odd howitzer and short-circuited the mechanism with his trigger finger. The results were astonishing. He cracked his crownsheet until it looked like a birdseye view of the Midway Terminal tracks but missed his brain by several inches. He was either a bum artilleryman or his gray matter wasn't located where he thought it was. Sure, he'll live!

THE SATURDAY PRESS

A WEEKLY "WHO'S WHO AND WHY"

The Northwest's Snappiest Newspaper

Place of publication: Minneapolis, Minn.

Two Dollars per Year in Advance

On sale on News Stands, Everywhere, Every Thursday.

OUR MOTTO:

Laugh and the World Laughs With You

Grouch, and You Grouch Alone.

HOWARD A. GUILFORD

J. M. NEAR (The Old Man)

Editors and Owners

A First Class Paper, mailable everywhere but not entered as Second Class Matter anywhere.

Dealers and Subscription Agents Wanted. Liberal Commissions.

A FRIENDLY TIP

Word has been passed to both Mr. Guilford and myself within the last week that if we persisted in our expose of conditions AS THEY ARE in this city, we would be "bumped off." Just a moment, boys, before you start something you won't be able to finish:

The open season on editorial writers ended with the assassination of Editor Don Mellett of Canton, Ohio, by an imported gunman.

The hired assassin met Mellett as the latter stepped from his garage one evening and shot him down in cold blood. It looked like a "clean job" and it was. It was so clean that when John Law got through mopping up on the underworld of that city, a chief of police and several perfectly good gunmen were stowed away in the sorrow foundry for long terms. How many of you tough birds are ready to act as nurse to a Stillwater twine machine for from ten years to life? None! I don't blame you. There's nothing like the great out doors even if the pork chops don't always overlap!

Make no mistake about this—WE ARE GOING ON THROUGH, and if anything happens to either of us, "accidental" or otherwise, the stage is set so that within twenty-four hours after the "accident" happens, old Sir John Law will begin stuffing Stillwater penitentiary full of certain gentlemen and before he finishes, that model institution will be so overcrowded that the last few dozen will have to sleep with their legs out the windows.

Now, if you think I'm kidding, just ring your machinegun curfew and watch the hegira begin.

Commercialized gambling—no "gentleman's game," mind you, but skin games pure and simple—is in the hands of a coterie of selfstyled "bad men"—men who "cut and shoot,"

46 i. e., "cut" the cards crooked and "shoot" the fleeced sap out the door. Square gamblers (and there are more of that class than Mr. Average Citizen believes exist) hardly dare drop a copper cent in a gum machine for fear of incurring the wrath of the privileged gang or the "powers who be."

It is idle to say that gambling can be driven out of any city, be that municipality large or small. It can not be, for in the breast of every human being Nature planted a spark from the eternal fire called "Chance" and wherever men and women congregate, in club or at social gathering, that spark fans to tiny flame or all-consuming blaze. Kismet, it is
47 Fate! But:

Between the social game where stakes are small and friendships never broken and commercialized games SUCH AS EXIST IN THIS CITY, there is a gulf as fathomless as the blue vault above. It is against the latter that we wage our fight. If it is to be our last fight, so be it, but gang rule of Minneapolis HAS COME TO AN ABRUPT END, with our assistance if we live, without it if we are checked out.

48 Present conditions are no longer endurable. They have become nauseating not only to the socalled "better class" of citizens but to the better class of the socalled "underworld" and they are going to end, not "sometime" but NOW.

Cordially and emphatically,

—THE "OLD MAN."

Judge (after charging the jury)—Is there any question that anyone would like to ask before considering the evidence?

Juryman—A couple of us would like to know if the de-

fendant boiled the malt one or two hours, and how does he keep the yeast out? 49

SHAKESPEARE TO DATE

So jump upon this bloody question.—Hamlet.

This answer will not serve.—Timon of Athens.

I do say thou are quick in answers.—Love's Labor Lost.

The question did at first so stagger me.—Henry VIII. 50

He grows worse and worse; question enrages him.—Macbeth.

A silly answer, and fitting well a sheep.—Two Gentlemen of Verona.

Where's the fool now? He last asked the question.—Timon of Athens.

I will not stay your questions; let me go.—Midsummer Night's Dream. 51

Do but answer this: What is the body when the head is off?—Henry VI.

Will your answer serve fit to all questions?—All's Well That Ends Well.

Make you a wholesome answer? My wit's diseased; but, sir, such answer as I can make, you shall command.—Hamlet.

TEA TATTLE

52 Hoping is a waste of time, my dear, unless matters are hopeless.

The manner in which a person is rude is the true test of good breeding.

Women who sigh to be understood really need nothing more vital than a more becoming shade of rouge.

It is every mother's hope that in a few years she will be
53 old enough for her daughter to take her around.

There's no good asking what the world's coming to, because by the time someone answers, it has moved on.

If a woman with her ancestry did cast pearls before swine, my dear, you may be certain they were oriental pearls and pedigreed swine.

Reluctance is woman's best weapon. If Salome had danced
54 the first time Herod asked her, most likely he would have dozed off during her performance.

TWO TOMS BEAT ONE TOM'S TOM-TOM

Former Nonpartisan League Paper, the Minnesota Leader, Seeks to Lead Farmers Into the Schall Fold.

Are the Leopard's Spots Changing?

(By J. M. Near)

Truly the memory of Minnesota farmers is but slightly longer than the whiskers on a horned toad if they have for-

gotten those days of just a few years back when, lashed to a frenzy by the eloquence of A. C. Townley and his orators, they shelled out their dollars, not singly but by the thousands, to establish their own publication—the Minnesota Leader. 55

How they cheered when the first issue appeared. How they pictured the future when THEIR side of economic and political questions could be presented to the world in THEIR language and through THEIR paper. Grimly they smiled and generously they gave. How futile their hope; how short their dream; how damnable their betrayal.

For a time paid scribes wrote furiously for the mortgage-laden, toil-scarred tiller of the soil. And then the stream of dollars that had poured steadily into the coffers of "their" organization, began to dwindle. The paid scribes vanished one by one. Townley and his spellbinders faded away. The farmers were left "holding the sack." Their organization members fell to bickering among themselves; they were misled by shysters masquerading as "leaders" into strange paths and into still stranger lines of thought. Ere long the circulation of their paper dwindled; its influence became all but nil and then, one day just as the flame of Hope had all but gone out in the breasts of its founders and supporters, it suspended. They thought it had. They were led to believe it had. Some sighed, some cursed, all felt relieved. 56 57

If occasional copies of "the old paper" fell into their hands, they thought little of it. To them the paper had ceased to exist. They knew its power to help had gone—they felt its power to harm, to again mislead, had vanished along with their hopes. They were mistaken.

I have no means of knowing how control of the Leader fell into the hands of its present owners, but most assuredly

58 it was not with the consent nor with the knowledge of those staunch old members of the Nonpartisan League. Denounce them, revile them, ridicule them, those of you who will, but I say to you in all sincerity, that they were honest in their convictions, staunch in their friendships, loyal to their Judas leaders and in devotion to their "cause." They were not Communists, they were not Reds, they were not disloyalists; they were what economic pressure and fiery leadership made them. They were not Mugwamps, Backnumbers nor Illiterates. They were largely Republican, with a smattering of Democrats and hard-headed, keen-thinking Socialists, but
59 they were not fools.

When they were, for the second time, misled into the political malformation known as the Farmer-Labor party, their hopes again arose. Perhaps at last they were to "come into their own." But it was not to be; it could not be. Again they were betrayed as Judas betrayed his Master but for less than the ancient traitor received for his treachery. Their leaders betrayed them for a political promise—the thinnest shimmer of Nothing ever spread over the hopes of man. And then came the deluge!

60 On September 1st, there appeared Volume 10, Number 1 of the Minnesota Leader—a grinning, a ghastly cadaver of Volumn 1, Number 1.

Instead of breathing a Promise or building a Hope, it filled every nostril with the miasmic odor of putrid politics; it builded a mound on the grave of a dead Hope and erected thereon the image of an Impossibility.

It flaunted in their faces the intrigues of underworld characters; it told of "wine, women and song" with detailed information as to who paid the bills and participated in the festivities; it pictured these bacchanalian revelers as

"wolves" circling about a Moses who at an unnamed date, might lead them out of the wilderness (where for three years he had done nothing but "yell"); it portrayed in vivid language its own, interpretation (and Schall's) of one man's "fight" against the Borgia—one lone corporation! —that would, unless you, all of us, accept Tom Schall as our political Saviour, destroy us. How nobly it lied. How it distorted facts and played up half truths. 61

And in a far from obscure position, it lauded the owner, Tom Davis, picturing him as a disinterested, philanthropic individual with no political aspirations and no ax to grind —actuated, at least in the September 1st issue, by purely "pity-taran" motives. 62

Cleverly, subtly, it sought to implant in every mind the idea that like Caesar's wife, this man Schall is above suspicion; that to question his official acts is lese majeste and but little short of treason. What miserable piffle! Why, this Republican-"Independent," Progressive-PoPo, catch-as-catch-can, any-old-port-in-a-storm chronic runner-up for office, is no more representative of farm, labor or business interests than any fifty men any of you can mention off-hand! His one aim is "I," his creed is "I," his sole ambition is to advance the interests of "I"—not "you" or "yours" but "I." You question this? Then recall any one of his speeches. The "I's" ripple from his tongue like rain from the eaves; they roar in torrents; they're as close together as the teeth in a fine comb. "I," the "great I am." 63

And Tom Davis, who has come to you on more than one occasion to ask that you elect him to the highest office in this state, who has long posed as the friend of agriculture, the friend of labor, donates an entire edition of his paper, THE PAPER YOU BOUGHT AND PAID FOR, to laud

and defend Tom Schall!

64 Personally, I like Tom Davis. He's a brilliant attorney; a lovable fellow; a born leader of men and a politician of no small ability. It's hard to question Tom Davis' motives, or doubt his sincerity, but one can not but wonder what the invisible tie that so suddenly binds him, his paper, his prospects and his wonderful ability to the "Blind Senator." Mark this well, you ex-Nonpartisan Leaguers:

When your organization was in the building; when your every effort was strained to the breaking point to perfect your organization; when every dollar you could squeeze
65 from your always scanty purse was needed to finance your organization; when your foes were legion and your friends few, Tom Schall was in the House of Congress SENT THERE TO REPRESENT THE OVERWHELMINGLY FARM POPULATION OF THE TENTH DISTRICT—never as a Leaguer, never as a friend of the League, but as an "Independent."

Never once in all those years did Tom Schall deliver a speech, throw the great weight of his "matchless oratory" (Sic) into ANY campaign in YOUR behalf—not once.

66 But today, you find him filling with slobbering self-praise, an entire edition of the paper YOU struggled and sacrificed to bring into existence.

Why? Has the leopard's spots changed? Is Schall any more your friend today, when he is in the United States Senate, than he was when he was a member of Congress? Hardly.

It isn't hard, my friends (sure, I include you who would like to see me all decorated with flowers I couldn't smell) to understand Tom Schall's sudden anxiety for the "poor downtrodden farmer" and the poor homesteader up in the

tall sticks along the boundary, not at all. Tom WANTS to go back to the Senate for another term and he's starting early! But it isn't so easy to understand why Tom Davis becomes so pitifully solicitous of Schall. 67

Tom Davis DID champion your cause in your years of political travel. Tom Davis did take the stump in behalf of your candidates even in those few years when he wasn't one himself! And you've got to give him credit for that, but:

Tom Davis has no right to devote the columns of YOUR former publication to fulsome flattery and nauseating praise of a man who never did aught for you or your organization except beg your support at the polls. 68

If Schall purchased the almost six pages of that September 1st issue of the Minnesota Leader, which he had a perfect right to do, let Davis acknowledge the corn. If Davis donated those pages to further Tom Schall's political interests, let him tell you why, if he dare, through those same columns.

Perhaps Davis did donate the entire issue of his paper to Schall, but: Can you recall another instance during your struggle for existence when the publisher of ANY paper surrendered all, even the editorial page, of his publication to the defense of a politician even though that politician was a United States Senator? 69

How many pages of that same paper, SINCE YOU LOST CONTROL OF IT, have been donated to YOUR interests? String your cyphers on a long, long wire, brother! And remember this while you are at it:

Tom Schall is safe in the Senate for almost three years—more than two years before he will have to face the music and come pleading to you for votes—and yet we find him

70 bursting out in the columns of an ex-Nonpartisan League Publication, building up his first line defense:

We find him enlisting the support of one of the most influential "farmer's friend" politicians in the state, two years in advance of his attempt at re-election! There's a reason and there must be a dusky African in the shavings.

I'm going to devote my time during the next three years to giving you some of the reasons and poking the "dinge" in the slats with a few pointed facts.

A man is "known by the company he keeps" and if Tom Davis insists in training in the same camp with Tom Schall,
71 that's his tough luck and not my fault. If the "two Toms" want to beat the one Tom's tom-tom, let the dance go on.

TOM AND JAKE

Much has been made by Schall's present allies, of the unsavory reputation of Arthur N. Jacobs, formerly of the Schall "inner circle" and for years editor of the now deceased "Harpoon," but they have said mighty little of several important facts.

"Jake" as he is known throughout the state, needs no de-
72 fender. He offers no alibi for his alleged numerous escapades. He seeks to evade no "pitiless publicity," choosing, rather, to take his medicine. But:

Admitting for the moment that Jake is all that Schall and his adherents charge him with being, and one stubborn FACT remains: He was all of these during the years when he was Tom Schall's close personal friend and political adviser. If Jake was "morally rotten" when Schall "repudiated" him, he was as morally rotten when he stood ace-high in the graces of the Blind Wonder of the Age; and for them to assume the position that the discovery of his

moral turpitude came about with the suddenness of a light- 73
ning flash, is all bunc. If Jake was crooked, no man on earth was in a better position to find out his crookedness than Thomas D. Schall and yet, for several years no man, with one exception, stood closer to Tom Schall than Arthur N. Jacobs!

I was never, what some folks would call "offensively friendly" with Jake but back in the days when I thought the Almighty's flowing robes too small to make Tom Schall a smoking jacket, Tom would call me into his office on numerous occasions, to go over some of Jake's biting editorials in the old Harpoon and assist in injecting a bit 74
more vitriol into certain paragraphs, and gentlemen, strangers are not called into such conferences.

When, in an unguarded moment, the mask slipped from the face of my blind idol and I saw:

Well, I quit right there. Jake went on. I never asked him where he spent his idle hours, it was none of my business, but I know that during the campaign of 1918 and 1920 no man (again with that one exception) stood closer to Tom Schall than Arthur N. Jacobs—the man scourged, berated and viciously abused by Schall. 75

I am uttering no apology for Jake. He needs no apologist. What he is, he is—what he was, he was and if Tom Schall didn't know Jake's character prior to the last national election, then, Tom Schall doesn't know enough to be in the U. S. Senate. And that's that.

Mike: "Heard the cops grabbed you last night. What for?"

"Fer impersonatin' a perliceman."

"How come?"

76 "Well, 'twas this way, ye see: Oi wint up t' a dhure and jist rapped on th' shmall panel, if ye moind and whin th' fellah inside shoved out a drink Oi tuk it."

GIL'S CHATTER BOX

It has been a good many years since we put the cover over the old Remington and put it away on the top shelf. Times have changed and heaps of water have run under the bridge. When we folded up our editorial wings and sat down in quiet reflection over the fact that the shade of said wings
77 was a bit too pinkish to get us by in real choice society, it was considered a mighty good car that could go up Kenwood Hill on high, and the boys hereabouts figured that Fred Fulton was one of the best battlers in the country. Recently Lindy took a shot of snoos and two sandwiches and flew to Paris, and as for Fred—well, the boys haven't changed their opinion any, but they figure Fred should have stayed in the country. All of which proves that the world do move.

But mightn't it be well if the world moved backward a little? Back to the good old days when folks went to bed
78 before the milkman arrived, and when it was considered a breach of etiquette to enter a business place with the odor of liquor on your breath. There was a time, within our memory, when the best way to get thrown out of the average office was to go in and ask the boss if he wanted a little snort, or rare, or whatever the exigency of the occasion and the quality of the stuff demanded. Now, you go into the same office and there is a bottle of safe blower's delight in every desk except the stenographer's, but, bless her little heart, she has an assortment of different sized glasses, anyway. We also have the uncertainty, in indulg-

ing, about the label, with the chances a thousand to one that
79 the difference between that label and truth is the difference between years and minutes.

All of which reminds us of our first and last drink of "moon." It was just about two months A. V. (Andrew Volstead), and we were sitting in the old Sochu enjoying a dish so beloved to orthodox Jews—chop suey, which is always started off with the broth of boiled pork and chicken. A fellow we had always thought was our friend came in, and joined our party of one. After the preliminaries had been run off he inquired if we ever indulged, and we somewhat
80 hesitatingly admitted that we did once in a while—on New Years, for instance, to start the year right; on Washington's birthday in memory of the Father of Our country who was also one of its first distillers; on the Fourth of July because of a deep patriotic feeling; on Labor Day in an effort to keep up with union business agents we are acquainted with; on Thanksgiving out of a pride in our old Puritan ancestors who quit shooting Indians long enough to shoot a couple of turkeys; on Christmas through joy at having been born in a family that claimed to be Christians and proved it by paying pew rent in Cal Coolidge's church but never damag-
81 ing the upholstery very much; and on other days for whatever was the excuse of the moment.

So we rose and did a Dennis-Shawn dance around the tables and repaired to the gentlemen's wash room, for, you see, this was in the days when it was considered against the law to pour out a drink in a public place. We got our drink—our first and last taste of snake spit. If ever there was a vile concoction that was made in the swamps and aged in the woods, we had just tucked away a mouthful of it. Before we could get to the ice water we smelled the

82 gaskets on our gizzard—they were on fire. And before we had finished the entree those Chinese waiters looked like Gideon and a flock of herald angels. Never came so close to kissing a Chink waiter as we did that night, and we've been a firm believer since that bright lights may dazzle, but moonshine will make you blind.

We hear the boys talking about the good old days, and wishing them back. Yes, we should have them back—days of temperance in all things. We are in a new era. We are in an era of corruption—all along the line. Assistant Secretary of the Treasury Lowman, recently stated that
83 the prohibition enforcement forces of the country were permeated with graft and corruption. What is the reason? We have emerged from the Teapot Dome scandal. We see the ex-Governor of Indiana just getting out of jail, making room for the present Governor. We see public officials going wrong all about us, some being sent to the penitentiary and some to the legislature for two years. Gangster rule now is supreme in places where before the dove of peace used to have one claw firmly wrapped around the roost, and the killers are getting so good that
84 pretty soon they will form a union and demand a three years' apprenticeship with at least five notches on the gun before an ordinary killer can join. Bank robberies have decreased, but that is not due to vigilance of officers. It is instead traceable to the fact that the former bank "heavies" are now running alcohol with the knowledge of officials who are amenable to reason, or else afraid to bother them. Gangland is preying on itself, with numerous hi-jackings and shooting affairs—witness the eighteen unexplained gangland killings in St. Paul, and two unprosecuted killings in Minneapolis.

Yes, let's try and get back to the good old days. We can't push time backward in its flight, but we can get sense and reason. We can push the pendulum about so far, but it will push us just as far the other way on the return trip. 85

We are not a burned out old buzzard who has turned reformer. We have survived a lot of summers and some mighty tough winters, and have taken a lot of falls, and not many springs left, but we can still enjoy a sensible evening spent at a friend's home, with a little game of cards and a lunch, and a clearheaded parting.

If some of you think we're a dog in the manger, just remember that here's one dog that will eat a little hay anyway, and will help the horse get the rest of it. If we can pry the hinges off a grin in this old life, we will try and give it to you in this column, and if we can help our part of the world to get its gears in mesh, we're going to do it. 86

It isn't necessary to be goofy to play golf—but it helps a lot.

OUR SUCKER AND CARP WAR

It will be news to myraid embyronic "Isaac Waltons" that "experience and equipment" is a major factor in snatching a bullhead, a carp or sucker from the luke-warm depths of a shallow lake, but we learn that it is. 87

The Minnesota fish laws are notoriously comics and far beyond the ken of any but a chosen few to comprehend. For years commercial fishermen have been issued permits to seine certain lakes of socalled "rough fish" which are shipped to Eastern markets where fancy prices are paid to the great delight and emolument of the fish barons. But let the native fisherman string a net in the same lake, and

he's jerked from under his derby and slapped limpid with
88 a stiff fine.

Some time ago the state game and fish commissioner, J. F. Gould, issued contracts for seining two small lakes in Rice county. Bids had been advertised for and contracts were awarded to the highest bidders which in this case didn't happen to be the "The" commercial fishermen or firms and thereby hangs the hide.

The commercial gents offer the state twenty per cent of the gross price received for the fish. The independent firms offered the state thirty per cent. The highest bidder won
89 —unless the courts decide that former experience and ancient nets are paramount to the state's interest and law.

Of course, the patriotic commercial firms are not going to submit without a fight. They have "rights" to preserve and seines to operate. To this they flourish the fact that a brother-in-law of the Governor happens to be a member of the firm who has raised the ante in the rough fish game and that irritates them exceedingly.

To be blunt about this, gentlemen:

It doesn't require an exceptionally high standard intelli-
90 gence to drop a seine in any small body of water, leave it for a pair of days and then haul the ends together and pitchfork out the fish, does it? That's all there is to the game. Therefore, armed with the seine and horse power to drag the ends together, a market for the seine's contents and transportation thereto, and the trick is turned. An intricate proceeding, to be sure!

In the meantime, in order to protect the state's interest, it becomes necessary to have a bond provided—not against the escape of small fry but against any evaporation of the state's percentage. Is this where the "previous experience"

clause comes in? The necessity for it?

The fact of the matter is that the commercial seining of fish in this and every other state where similar fish and game laws are in existence, is a joke—a raw one to sure, but still to be classified as a grin-maker.

Nets are placed in the lake for which the permit has been secured but "Keep Out" and "Don't be a Bullhead" signs are not distributed properly through the water, with the result that game fish and scaly infants of illegal diameter, circumference and length of life, are caught by the gills and hang there until they are "dead, dead, dead" which event takes place long hours before the commercial gentry find it convenient to drag in the cargo.

To be sure it is contrary to law to kill these game fish and small fry but that doesn't alter the fact that they are dead—thousands of them running into thousands of pounds; and not even the law can snap the spark of life back into dead fish!

What disposition is made of these game fish? Are they used for fertilizer by the owners of adjacent farms or are they donated to hospitals to be served on fete days? Or (perish the thought) are they sold on the market to such of our taxpayers as can stomach the mess and dig up the price?

The seining of fish in Minnesota lakes should be stopped, else the law should be altered to permit every citizen who cares to hog fish, rather than chance hooking one, to do so.

Wherever the commercial fishing permits have been issued, in this or any other state, the odor of graft has permeated the commonwealth. In every lake where commercial nets have been spread, the game fish have all but disappeared. It is a safe bet that for every hundred pounds of rough fish

94 taken from Minnesota lakes, half that amount of game fish have been destroyed.

But as long as we have a commercialized fishing law why not get as much out of it as possible, regardless of whether or not the Governor's brother-in-law, the veterinary-general or the Governor himself, offers the highest bid?

Certainly the commercial fishing bunch who have heretofore stripped our numerous lakes of fish, have enjoyed that monopoly long enough. If the new contenders are willing to pay the state thirty per cent of the gross, as against twenty per cent offered by the more ancient operators, by all means let the newcomers in on the game. Pass the biscuit around—don't keep them eternally on one end of the table.

95

Speaking of our state game and fish laws, that proviso in the nonresident fishing license, limiting the shipper to eight pounds of bass, is a pippin. Charge a tourist three dollars for license and then pinch him for trying to ship home two bass weighing four and a half pounds each. Some law, that! Whacha want him to do—hew 'em down to legal weight and measure?

96

Our Democratic friends are going to have harmony next National Convention even if they are compelled to force every candidate to surrender his aspirations and retire to the pit.

Brother McAdoo, who won eternal fame some years ago, by marrying into a presidential family, has recently announced his withdrawal from the arena, whereupon there arises a great cry from every section of the country, imploring all other candidates to follow his illustrious example.

To date, McAdoo has the self elimination field to himself. 97
Smith, the New York thorn in all Democratic sides, smiles softly, Jim Reed emits oodles of silence and the other prospective timbers look wistfully at their opponents. If this elimination process continues another four months, there will be nothing for the Democratic party to convention on or for.

HOME TOWN GAMBLING

(H. A. Guilford)

"Red" Clare's African golf athletes bouncing the gallop- 98
ing dominoes over the green of a pool table at 818 Hennepin where the town's official fifty dollar limit crap game is in full swing—taxpayers clicking their heels in the waiting room of central police station, waiting for an opportunity to see the chief who is engaged in a conference with the proprietors of the game—loop hounds congregating in a third floor suite at the West Hotel where comparative values in pasteboards and ivories are ascertained (sometimes facetiously referred to as a poker game)—and the well known and popular keeper of the public morals, Charles Davis of the Law Enforcement League, kidding the grand jury and 99
making a farce out of the whole law enforcement scheme with his sudden urge to suppress baseball pool gambling; this is the local situation which today confronts the poor fish who ultimately foots the bill, the while standing in reverential awe and watching the careering trajectories of his tax statement.

The grand opening of these ports of missing men (until 5 a. m. anyway) took place five weeks ago, coincident with Mr. Davis' discovery that baseball gambling pools had been operating all summer in a dozen little barber shops and

100 bootblack stands, and the grand jury investigation.

The net result of the grand jury investigation was to close the small fry, chase punchboards out of drug stores, and herd the gambling blood under a couple of roofs where the winners do a Kickapoo war dance and the losers do two years for embezzling the boss' loose change.

Charles Davis, Chief Poo Bah of the opera, master of the court house waste baskets, groom of the back stairs, and Lord High Executioner unto ye evil doer, to say nothing of $6,000 a year law enforcement worker; the man who knew
101 where every short card was played—the location of every rat hole where home brew could be obtained under the regime of Chris Jensen as Superintendent of Police, and who violates one State law by employing university students to enter dens of iniquity to secure evidence and other knowledge not prescribed in a college curriculum; who turned Heaven and earth in an effort to convict Jensen of malfeasance of office, to the end that Jensen asked to be relieved of his duties and demoted in rank; by his every act and deed has made this situation possible.

102 The Hennepin Avenue crap game is a continuance of the game that ran for four years without any interference at 208 11th Avenue South, opened shortly after Superintendent Jensen resigned as police head. The proprietors of the Twin City Reporter were holders of a large block of preferred stock in this financial enterprise. Previous to the Eleventh Avenue location this game was located at 251 Hennepin. While at this address the writer went to Charles Davis and advised him of the game and made a demand that it be stopped. Davis hid behind the subterfuge that he had been unable to get his "men" into the place. The writer made it possible for one of Davis' agents to get in, and was

rewarded for his efforts by being advised by the officer who headed the purity squad that 251 Hennepin was not to be raided, and that it was time wasted to go to Davis in this connection. This incident occurred during the time when Davis and several of his agents were sworn in as special officers, and had the authority to make a raid. 103

The time of Mr. Davis is exceptionally well occupied holding star chamber sessions with Municipal Court judges and defendants before the court, without the formality of inviting defendant's counsel to be present; he demands the presence of these defendants at his office and there, behind closed portals he parades with the pomp and dignity of a deposed and shorn Kaiser, demanding information upon pain of his, Davis, making adverse recommendation to the court in the defendant's case; yet he has at no time in recent years made a move in the greatest commercialized law breaking enterprise in Minneapolis that has not been a stall and calculated to wind up in the emolument and financial aggrandizement of the protected gambling syndicate of Minneapolis. Why, Davis? 104

CHAFF 105

Extracts From the Minnesota Leader

"The testimony has shown that Jake had received in the neighborhood of $6,000 as his end of the bootlegger monies . . . That every dollar of these thousands was squandered by Jacobs for taxicabs, liquors, big dinners and that he deposited and gave to Mrs. Neeley in all about $7,000."

I arise to inquire gently, where the heck Jake collected all that rubber money? Never since the days of Grover Cleveland has such "elastic currency" been exhibited. Schall

106 should have kept such a financier in his employ for but few men are capable of fretting the rubber off taxicab wheels, financing banquets and guzzling "3 in 1" stock over even a brief period of time with a mere six thousand Yankee pesos. Yet we learn from Mr. Schall's own journal that this young man not only performed this miracle but staked a lady to an additional seven thousand from the remnants of the original six!

Verily, I say unto you that since the day when the hunger of a multitude was satiated with five loaves and two fishes, the world has not witnessed a miracle the equal of this.

107 Jake, Jake, how could you do it?

"Was Magnus a double-crosser?" yells a headline in the Schall edition of the Leader. In the absence of proof to the contrary, I assume the question was aimed at my humble self as well as a few other folk, therefore I answer that I don't know, but:

If he WAS, then I know another.

---

108 "Schall has always advocated what is best for agriculture," declares the inspired scribe of the Leader staff. Might I ask, without stampeding the audience, if Tom learned "what is best for agriculture" from his close contact with "tillers of the soil" or with Andy?

I got a delightful kick out of the "artist's idea" expressed in the decorative feature of the Leader. The Senator's "guns" would have easily passed as crooked sticks (typical) had not the printer rushed to the rescue with explanatory lettering; his "dashing steeds" resemble Yuletide equines

on the following All Fools Day while the main subject of the sketch carries the same anxious expression that any masculine chewer of tobacco owns when he's trying to keep from expectorating on the laprobe. 109

"Labor is paying Mahoney something like $5,000 a year to edit this paper" (the Minnesota Union Advocate).

I am fresh from the Ozarks! If Mahoney is getting "something like" five thousand iron men per annum for editing the Union Advocate, then I have a ten case note that says "more likely" the major portion of his salary consists of jawbone currency. 110

Labor pays its editors about like the members of a country parish "pay" their pastor—in old clothes, chicken dinners, super-heated ozone and a few worn dimes. They toss his salary into some shrubbery with the understanding (among themselves) that such currency as sticks to the limbs goes to the dominie and all that falls to the ground reverts to the donors. They invariably toss silver coins.

"Schall went to Congress in 1914 and has been there ever since." 111

Accidents will happen. Old Rip Van Winkle slept for twenty years and the snooze Marathon of the fabled Dutchman has about been duplicated by the voters of this state—their twenty years will have expired about the time Tom comes up for re-election. Get the point, Roscoe? No!

Well, in plain Choctaw, the voters of Minnesota are going to snap out of their "little Nemo" nap about two years in advance of the Winkle awakening and when they do! Say, one could stuff all the votes Tom Schall will get in

112 the bowl of a clay pipe and still have room to spare for a thumb or two. Tom's done.

"And the lion and the lamb shall lie down together." That miracle may some day come to pass, but if it does, it will excite no more comment than the miracle of "two Toms" lying in unison, the fruits of ambition create strange appetites and political swaps make for peculiar bunk-mates.

The Farm-Laborites who recently met, whereased and
113 grangled exhaustively for several days recently in St. Paul, were, and still are, very much excited because the September 1st issue of the decrepit Minnesota Leader failed to announce the name of its editor. No use to get excited, gentlemen, Davis knows, Schall knows, and you fellows who made the paper possible, aren't supposed to know—anything. But you might ask the "Two Toms," or Andy.

"Senator Thomas Schall should have the Minne-
sota delegation to the 1928 national Republican con-
114 vention instructed for him for pres-

Omigosh! Have we actually come to this?

"If or when the fifth contest is started," wails the Schall edition of the Minnesota Leader. Setting up straw men and bowling them over seems to be a hobby with the Schallites. They remind one muchly of that ancient Dutchman who spent his afternoons and evenings at the public taverns and the balance of the night battling windmills and shooing goblins off his Navajo.

"It took three years for the lone voice in the wilderness to be heard." 115

Which three? Where was Andy? Did the balance of Senate and Congress go about with fingers in their ears for three years while Tom spavined his vocal chords? Perhaps that three years' continuous yelling of Schall's explains why Congress and Senate failed to pass so many important measures—their nerves were raw!

"But Tom Schall still yelled."

Uh huh! Nothing else but. 116

The Feds are making life miserable for the German population of Wisconsin. They are making a specialty of home brew raids. The situation is such in the City of Suds that if a Dutchman is caught wiping his mustache he is at once the center of a mob of hooch terriers. Unless the pressure is removed quickly, Milwaukeeans will soon be forced to slake their thirst with near beer.

We are occasionally afflicted with a series of tirades against the wicked city of Juarez, Mexico, which we are solemnly assured is the "Sodom and Gomorrah" of this and adjacent centuries. I spent an afternoon and evening in that city not long ago and the only individual I saw who was intoxicated was an American businessman who had crossed the International bridge in order that he might exercise his Constitutional right to take a drink without thereby becoming a "criminal." And he was piped to the eyebrows. Drunk, happily, hilariously drunk and proud of—his freedom on foreign soil. 117

118 Newspaper accounts state that the King of the Greeks wants to get his throne back. Typographical error, probably. It's a fruit stand lease he's after.

Governor Ed Jackson of Indiana said he welcomed his indictment and forthcoming trial on bribery charges. We'll say he is different from most folks.

Paris fashion decrees that the Beau Brummels of that war-torn country shall wear novelties made of frog skins. And in America are thousands who consider it a novelty
119 if they have enough frog skins to buy soup meat.

When a city administration informs the public through the columns of a series of "great moral journals" that gambling is not tolerated, while every individual in the city with most faintly inquisitive mind knows the exact hour when the "grand opening" of a palatial joint takes place, someone is quite apt to be a liar.

Old Lady (to newsboy)—You don't chew tobacco, do
120 you, little boy?

Newsy—No, mum, but I kin give you a cigarette.—Oil Age.

AND THE SON WENT DOWN

It happened on Nicollet and Second one morning not long ago.

A dusky lady came slowly down the avenue in a big bus hunting for a cavity in the solid ranks of cars. She found one. Carefully so as not to disturb the flivvers, she oozed past the orifice and started to back in. She was too careful.

Just as she had settled herself down to make the final turn, 121
a blond sap, piloting one of "Lincoln's little playmates" darted nonchalantly into the hole and started to unload himself.

The chocolate lady eyed him with haughty stare and then, shutting off the motor of her chariot, she reached carefully under the front seat and extracted therefrom a crank. Without a word of friendly greeting but with battle in her eye, she swung for the white "gem'en's haid." She landed as neatly as Lindbergh's "We" and the puddle-jumper's owner went down with a thud. He didn't stay down.

Instead he bounded to his feet and swung a Dempsey 122
special straight for the wench's chin. Africa flopped. With a grunt of pained surprise she met the pavement but the meeting was brief. She came up with a rush and the fight was on.

The crowd cheered impartially and fast. The ruction lasted quick. With a "Powerful Kathrina" stranglehold on the gentleman's trousers, she heaved mightily. The results were ripping, as well as disastrous.

Sympathizing bystanders donated sufficient safety pins to permit the gent to reach police headquarters safely. Each 123
wanted the other arrested for various assaults. They were finally advised to swear out warrants for each other without delay, but, taking a tip from "precedent" they decided to take their respective case "under advisement" and await further developments. They are still awaiting.

Our sympathy goes to the dinge. We have many times owned her desire but lacked her courage. The fellow with one of Hank's mechanical cockroaches who hogs the road and who prides himself that he can screw the insect into any crevice in a line of traffic is an abomination to every car

124 owner. So, here's to the brunette—may her crank never fail.

Schall had a fair hearing in the United States Senate and was exonerated. He had a fair hearing in the Minnesota Senate and was exonerated. He is what one might truthfully call a "glutton for exoneration."

An appraiser who had been sent to inventory the contents of a house found a bottle of whiskey on a table. His next entries read:

125 "One bottle of Scotch, empty. One revolving table."—Oil Age.

The "revenue officer" felt certain the moonshine plant was just over the hill, so he accosted the ragged urchin perched precariously on a sagging fence rail.

"Hey there, sonny. Want to make a dollar?"

"Sure."

"Alright. I'll give you a dollar if you'll show me where the still is located behind this row of hills."

126 "A'right. Gimme yer dollar."

"Not until you show me the still, sonny. Show me and when I come back, I'll give you the dollar."

"Nope. Gimme th' dollar fust."

"But why first? Think I wouldn't pay you when I got back?"

The urchin smiled wearily: "That's jest it, mister. Ef you go, you ain't never comin' back."

A Senator once remarked that all genuinely dry members of the United States Senate could be loaded in one taxicab. Yes, and if the genuinely dry private citizens could be seg-

regated from the balance of the herd, they could each be allotted a Texas-sized ranch in the state of Rhode Island, without crowding the natives. 127

Sign on Panhandle restaurant: "Table d'hote Dinner, 60 cents. Soup changed daily."—Bridgeport Driller.

JUST PHUNNY

According to a college humorist, "Two pints make one quart; two quarts make one wild."—The Loreco Diamond.

128

"Why does Mary call you maple syrup?"

"Because I am such a refined sap."—Independent Topics.

Anyway, we've prohibited tolerably good liquor at tolerable prices.—Louisville Times.

Ain't it the truth!

A hick town is a place where the bootleggers never make enough money to get out of the criminal class.—Memphis Scimitar.

129

Saving "sinners" and reforming "criminals" has been the most remunerative of all professions since the Tower of Babel's fall.

Send in that subscription for your friend, along with your own. Get your local newsdealer to order a bundle.

"The two enemies of reform are the wicked who oppose it and the lunatics who favor it."—Springfield Sun.

And the latter are most numerous.

130 Liquor may not inspire a poem, but certainly soda water doesn't.—Globe-Democrat.

They call it the "underwoild." Under what? It isn't indictment and it isn't suspicion. We are beginning to fear that it is undervalued.—The Fort Worth Record-Telegram.

Put two and two together. Bottle making is at the apex of its output in America and five times as many grapes are being raised as ever before. Think on it, Mr. Borah.—Globe-
131 Democrat.

Minister (denouncing Demon Rum): "And if I had my way, I'd throw all the liquor and whiskey into the river. We will now sing the concluding hymn."

Choirmaster: "The congregation will please rise and sing Number 79—'Shall We Gather at the River?'"

Husband and wife were driving along a lonely country road. There had been a spat. A mule brayed.

132 "One of your relatives?" he asked?

"Yes, by marriage," was the reply.

EXHIBIT 2.

OUR DEFY TO GANGLAND

This Issue and All Other Issues

THE SATURDAY PRESS

Minneapolis, Minn., Oct. 1, 1927

Vol. 1, No. 2 Price 5 Cents

GUILFORD'S ASSAILANTS INDICTED BY GRAND JURY

Two Gunmen Who Attempted Assassination of Howard A. Guilford, One of the Editors and Owners of This Paper, Are Positively Identified by Both Mr. Guilford and His Sister-in-Law, Miss Siede. Arrest of "Higher Ups" in Gangland Circles Sure to Follow.

The first cog on the Wheel of Justice slipped into gear Thursday afternoon when the Hennepin County Grand Jury returned indictments against Harry Jaffa, 21, and Paul Gottef, 24, charging them with first degree assault.

Take one more look at the ages of these boys:

One barely in his majority, the other only three years past! Boys in years, yet criminals, charged with what amounts to an attempt to murder.

I'm not much of a preacher but I'm going to Billy Sunday a few facts into the sluggish minds of my readers. I'm not going to rehash the sordid details of that brutal act. I want to ask each and every one of you, WHAT LED THESE BEARDLESS BOYS INTO LIVES OF CRIME?

They are barely beyond high school age. They are scarcely out of their teens. They, had they not been misled, would have been useful, law-abiding citizens. As "kids" they were not vicious, they were not brutal, they were not subnormal.

136 Today they are all of these—case-hardened youths identified positively by their victims of shooting down a defenseless man—A TOTAL STRANGER TO THEM—THEY UTTERLY UNKNOWN TO HIM.

What in the name of all that is holy are we coming to when school boys turn gunmen and for a paltry sum, deliberately set out to kill a fellow man and that man one who had never wronged them or theirs in any way—a stranger?

They deserve punishment and they will get it, rest assured of that. BUT:

137 What of the ones who HIRED THEM TO KILL? Shall they escape and these boys be punished FOR THE CRIME THEIR SOULLESS EMPLOYERS ARE GUILTY OF?

Are the loop holes in our laws so large that only "hired men" are caught and "hiring men" escape?

These young fellows have grown to (shall I say "manhood"?) in this city. Eight, seven, six years ago they were in your schools. Today they are in your jail. In a few weeks they will be in your penitentiary; AND THE MILLS THAT GROUND THEM FROM SCHOOL TO PENITEN-
138 TIARY ARE THE MILLS THE SATURDAY PRESS IS ASKING YOU TO CLOSE:

The gambling joints, owned and operated by the Twin City Reporter gang AND THAT PUBLICATION ITSELF.

Neither Mr. Guilford nor myself have asked you to destroy or suppress one legitimate business. We have never besought your officials to close one single place THAT IS NOT A MENACE TO YOUR BOYS and a standing threat to your home.

These two boys are graduates from the school of crime that your police department and your law enforcement

leagues have permitted to flourish in your city. I make this 139
accusation directly and without fear of contradiction:

GAMBLING SYNDICATES, COMMERCIALIZED GAMBLING CAN NOT EXIST, COULD NOT HAVE EXISTED, IN THIS CITY WITHOUT THE KNOWLEDGE OF THE POLICE DEPARTMENT AND THE SO-CALLED LAW ENFORCEMENT LEAGUE!

The "master minds" of this gambling syndicate are the TEACHERS IN YOUR SCHOOLS OF CRIME—THE VERY SCHOOLS FROM WHICH THESE TWO BOYS GRADUATED. Are you respectable citizens of Minneapolis willing that these crime schools shall continue or are 140
you willing to do your part to CLOSE THEM FOREVER?

The indictment and conviction of these two boys will not end the carnival of crime and corruption that has rioted in this city for more than five years. They must be punished, but along with them must go THE MEN WHO STAMPED CAIN'S CRIMSON BRAND ON THEIR FOREHEADS—the men who PAID them to kill.

No matter who's back is scored by the lash, it must not be spared, even though "those in high places" are scourged. The men who employed these young fellows to shoot Mr. 141
Guilford are thrice as guilty as they.

And these who were tutors in this vile school of crime—the men who own and operate, who profit by and protect this school are the men who owned and operated the gambling den at, first, 208 11th Avenue South and later at 818 Hennepin Avenue.

You can't have commercialized VICE without having wholesale CRIME.

You can place the sweetest chimes in the towers of your churches, but if you leave the doors of gambling dens wide

142 open YOU WILL HAVE MORE CRIMINALS THAN SAINTS.

You can sing psalms until your vocal chords are paralyzed, but if you fail to even whisper your condemnation of CONDITIONS AS THEY ARE IN THIS CITY, you need express no surprise at the downward-bound host and the pitifully few who go up.

Criminals are Made, not born, and they are made by hundreds, by thousands in the very institutions the Saturday Press is opposed to—the gambling joints in this city. Not the petty baseball "pools" that your hair-brained sleuths
143 rave about and rant over, but COMMERCIALIZED GAMBLING JOINTS—PROTECTED dens of vice—criminal incubators such as are operated by the owners of the Twin City Reporter and their allied thugs.

That's all. Send the two boys on down to Stillwater, but DON'T OVERLOOK THE THINGS WHO EMPLOYED THEM, that made them what they are.

REMEMBER DON MELLET!

Well, gangland has won the first round but as usual,
144 gangland has forgotten that this is no one-round affair BUT A FINISH FIGHT.

The Saturday Press HAS JUST BEGUN TO FIGHT!

If the ochre hearted rodent who fired those shots into the defenseless body of my buddy, thought for a moment that they were ending the fight against gang rule of this city, they were mistaken.

Had they given him the same chance that a sportsman gives his prey, what a different ending there would have been to the affair.

And you nameless, sireless spawn who plotted that shoot-

ing but who didn't have the guts to turn the trick yourselves, I wish there were words in the English language that would enable me to express my contempt for you, you carrion buzzards. 145

You hired your gunmen and then scuttled for cover, preparing your alibis, arranging your schedule, protecting your own leprous hides, rearranging your smirks and planning your future earnings when, with "Gil" out of the way, you would feel safe once more. You thought, you hoped that with the shooting of "Gil" the "Old Man" would fade out of the picture, but you sicked your dogs on the wrong cat. The fight has just begun. 146

—The Old Man.

THE SHOOTING OF HOWARD A. GUILFORD AND SOME TWIN CITY REPORTER HISTORY

(By J. M. Near)

Folks, I am going to tell you this story in my own way, in my own style, or lack of style, and in language so plain that all can understand.

Mr. Guilford and myself started the publication of the Saturday Press with but one aim in view and for one purpose only and that was TO CLEANSE MINNEAPOLIS OF THE TWIN CITY REPORTER AND ITS PROTECTED GAMBLING SYNDICATE OWNERS. 147

Three weeks before we put out the first issue, we were threatened with death if we persisted in our expose of the gambling syndicate and the Twin City Reporter. Our first issue (dated Saturday, Sept. 24) appeared on Thursday, September 22. But few copies were distributed at that time, for reasons I shall disclose further on, but on Saturday morning we were told with charming frankness that

148 "if you don't lay off you will get your ear slapped BEFORE THE 27th." We have both been accused of many things of which we were innocent, but not even our most bitter enemies ever accused us of having cold feet. We have "quit" at the END of many fights but never at the BEGINNING.

On Monday morning, September TWENTY-SIXTH, just one day sooner than the date set on which our ears would be slapped, Mr. Guilford phoned me a few moments before 8 o'clock A. M., from his home in Robbinsdale that he was leaving for the office and asked me to meet him there at 8:30.

149 Before I had left the house, a phone call informed me that he had been shot down JUST ONE HUNDRED FEET OUTSIDE THE CITY LIMITS. I ask you who read these lines to remember the date set for our "ear slap" and the distance OUTSIDE the city limits at which the shooting occurred.

With Mr. Guilford at the time, was his sister-in-law, Miss Esther Siede, who is employed in one of the largest financial institutions in the city. When the killers pulled up alongside Guilford's car, crowding it close to the curb, the doors of the "Chivvy" touring were thrown open and with "We've got you now, you ——————," the killers began firing. It is 150 certain four shots were fired, with possibly several more. Guilford, who is an expert marksman, groped for his gun which, unfortunately, was in the side pocket of his car. Before he could reach it, one shot struck him in the left side of the abdomen and the gunmen, as "Gil" slumped over against the steering wheel, still groping blindly for his gun, sped away.

Had Mrs. Guilford instead of her sister been in the car that morning SHE WOULD HAVE BEEN SHOT DOWN AS DELIBERATELY AS HER HUSBAND but the killers, after the first shot, which went between Miss Siede's and

Guilford's heads and crashed through the windshield, evi- 151
dently discovered that the lady was not Guilford's wife and concentrated their fire on "Gil."

IT WAS THEIR INTENTION TO KILL BOTH GUILFORD AND HIS WIFE UNDOUBTEDLY! The dead are silent and to the soulless fiends who fired those shots, nothing is sacred, not even womanhood. They intended killing both Guilford and his wife, BUT THEY HESITATED TO KILL A WOMAN THEY HADN'T BEEN TOLD TO KILL. They might forfeit their "fee"! Miss Siede escaped, not because the Fates were kind to her, but because she was not MRS. HOWARD A. GUILFORD! 152

Who were these killers? Who employed them? WHO WOULD BENEFIT BY GUILFORD'S DEATH? Who would have an incentive to kill or have killed? Within the last eight years there has grown up in this city the most powerful blackmail and gambling syndicate that ever operated in the Northwest. It has terrified the public, it has intimidated police administrations if it has not controlled them. It has operated gambling hells in various sections of the city AND WITHOUT INTERFERENCE FROM THE LAW ENFORCEMENT LEAGUE OF THE POLICE 153
DEPARTMENT.

In our former issue neither Guilford nor myself mentioned names. I am going to, in this issue, AND IF GANGLAND WANTS ME, GANGLAND KNOWS DAMWELL THAT I'LL MEET IT AT ANY PLACE IT DESIGNATES AND GANGLAND KNOWS THAT WHEN WE MEET (THEY CAUGHT POOR OLD "GIL" OFF HIS GUARD FOR A MOMENT) THAT MY GUNS WON'T BE IN THE INSIDE POCKET OF A CAR.

The law declares that I and thousands of other law-abid-

154 ing citizens shall go unarmed, yet the law KNOWS that gangland, sneering at the law, scornful of it, IGNORING IT, is armed to the teeth.

THE LAW ISN'T POWERFUL ENOUGH TO DISARM GANGLAND but it's powerful enough to require law-abiding citizens to go about unarmed—to be shot down in cold blood by a gang of murderous ruffians WHO KNOW THEY ARE TAKING NO CHANCES because the law has already disarmed their victims. I respect the law. I am no anarchist, but I refuse to stand defenseless while gangland riddles MY body with bullets. I know that I am marked
155 "Next" on gangland's list but when I go, I'll send one or more rats over the Divide ahead of me.

Neither Guilford or myself are posing as "reformers." We are not "vice crusaders." We are simply tired of having our names connected with that vile sewer mouth, the Twin City Reporter; determined that its gang rule of Minneapolis, SHALL BE BROKEN, SHALL END—NOW!

We—but let me go back a few years to the beginning:

Mr. Guilford launched the Twin City Reporter in 1913. Early in 1916 I came down to this city and went to work
156 for him as editor. That summer I became acquainted with Jack Bevans, the suave, smooth "tough boy" from Chicago —so "tough" that he had fled that city in order to escape PROVIDING FOOD, CLOTHING AND SHELTER FOR HIS ONLY CHILD. He was about two jumps ahead of the Chicago police.

Here he secured employment on the TRIBUNE—the present owner of the Twin City Reporter WAS AT ONE TIME EMPLOYED AS POLICE REPORTER BY THE MINNEAPOLIS DAILY TRIBUNE. Forgot that old connection, "Trib"?. You birds get such a "kick" out of re-

connecting Guilford and myself with the Twin City Reporter 157
that perhaps you will be able to get a giggle out of the Reporter owner's former connection with your "great moral journal," eh?

I did not know at that time, that Bevans had been discharged by Guilford because he had been caught red-handed "making a shake," in other words, blackmailing some poor devil.

Guilford had one child, a boy just of school age. The boy was cruelly twitted by his playmates because of his father's connection with the Reporter. "Gil" announced to 158
me late that summer that he was going to get out of the sheet if he had to give it away.

I was strange to the city. I made Guilford an offer for the paper providing I could induce Bevans to take a half interest. "Gil" advised me that if I did, to "watch Jack," but didn't tell me from what angle! On January 1st, 1917, Guilford stepped out of the Twin City Reporter office AND HAS NEVER BEEN CONNECTED WITH IT IN ANY WAY OR MANNER SINCE THAT DATE.

Never physically strong, I had to devote all my time and energy to the editorial end of the paper. I knew nothing of 159
the paper. I knew nothing of what was going on outside and but little of what went on in the office for I did practically all my writing at home.

For about a year things went along smoothly. I heard nothing that aroused my suspicions. One can not be eternally spying on one's friends and every man who has a partner naturally has a great confidence in that partner—until he has learned in the bitter school of experience of that "pard's" treachery.

In 1919 rumors reached me that set me thinking. When

160 finally a tale came to me of Bevans' "shakes" I told him bluntly that if that came to me again, he or I would get out of the paper. Later on in that year (I do not recall the exact month) a grand crash came. He and one of the men employes undertook to "shake down" a prominent woman for ten thousand dollars. That was the last straw. I called him into my office and told him to "buy or sell" and then for the first time I learned what a "wonderful" fellow I had as a partner.

He informed me with a fine air of bravado that he had
161 INVESTED EIGHT HUNDRED DOLLARS OF THE FIRM'S MONEY IN A GAMBLING JOINT LOCATED NEAR SEVENTH AND HENNEPIN and coolly told me that unless I kept him as a partner, I would lose my half of that sum.

Friends, it was worth four hundred dollars to me to know that I had a double-crossing skunk as a partner. I sold for twenty-five per cent of what the paper was actually worth, told Bevans to go to —— with that four hundred dollars and walked out.

I HAVE NOT BEEN CONNECTED IN ANY WAY OR
162 MANNER WITH THE TWIN CITY REPORTER SINCE 1919.

Guilford severed all connections with it in 1916 and I in 1919, yet:

Not a month has passed since those dates that each of us have not been taunted with our connection with the blackmailing, gambling-protecting rag AND WE ARE TIRED OF IT.

We are not gunmen; we are not blackmailers; we are not thugs. We have tried to live down our former connection with the Twin City Reporter and we have found it an im-

possible task, for as long as that sheet continues to exist, 163
just that long will Minneapolis citizens be exposed to black-mail; just that long will Minneapolis reputations be blackened; just that long WILL PROTECTED GAMBLING FLOURISH IN MINNEAPOLIS, and just that long will Mr. Guilford and myself be ostracised, AND OUR NAMES BE USED BY THE GANG IN ITS BLACKMAILING ACTIVITIES.

In another part of this issue you will find an article written by Mr. Guilford on Friday afternoon before he was shot. In it he tells of the gambling joint at 818 Hennepin avenue. The daily papers tell you that the police have no knowledge 164
of a gambling place at that number.

When the same coterie of gamblers were operating at 208 11th Avenue South, they, as Guilford tells you in his article, ROBBED A BANK THIEF—think of it: A PACK OF THIEVES ROBBING A BOY WHO HAD STOLEN FROM HIS EMPLOYERS THAT HE MIGHT POSSIBLY WIN BACK A PORTION OF HIS OWN MONEY LOST AT THEIR "FIXED" GAME!

And when the police raided that hole at 208 11th Avenue South, they didn't raid it at all! THEY RAIDED TWO 165
DOORS AWAY and the big game never closed for a moment, not even while the police were raiding the "joint," one hundred feet distant.

I have been out of the city for four years, yet the second visit I made downtown after my return I was informed that the "big game" would open at 818 Hennepin on the following Thursday night and I ask you in all fairness, if a semi-stranger can locate the "big game" within two hours after he visits the downtown section and have the information given him WITHIN TWO DOORS OF POLICE HEAD-

166 QUARTERS, isn't it evident, painfully plain, that the police DID know of the grand opening? If you deny or alibi for them, won't you be fair enough to admit that if they didn't know that they aren't fit to have charge of a police department?

Shortly after I had broken with Bevans in 1919, he made some connection with Ed Morgan, the present and ostensible owner of the Reporter. Morgan never was a writer, a newspaper man, but he is reputed to be a "tough egg" well connected with the underworld and "the best business manager the Reporter ever had."

167 Jack Bevans and Ed Morgan own the Twin City Reporter. Today Ed Morgan is under an indictment for blackmail. Bevans has ALWAYS had a "fall guy" in any and all his operations.

He owned a roadhouse on the shore of Mille Lacs lake for several years which he operated with the wild abandon of old saloon days. He made a small fortune at that place, all the time keeping in close contact with Ed Morgan, who looked after the "business" end of the Reporter and their amalgamated interests in the gambling joint.

168 The Reporter was held as a club over officials. Every morning Ed Morgan could be seen stalking into police headquarters with the pomposity and arrogance of a Duke. His swagger was not assumed. He was the "big boy." He was a part owner of the gambling joint, first at 208 11th Avenue South and later at 818 Hennepin Avenue.

Bevans, cautious to the point of timidity, seldom "made" police headquarters. Possibly there was a grim suggestiveness about those cold stone walls that chilled his ardor and dampened his enthusiasm even when the game was "going good."

These two men dominated the gambling situation in Minneapolis only and solely because of their ownership of the Twin City Reporter. 169

With them in the gambling house at 818 was Mose Barnett, an underworld character who previous to his connection with Bevans and Morgan was reputed to be a "square shooter" in the gambling game. How the precious pair succeeded in inveigling "Big Moe" into entering into any partnership with them will forever be a mystery.

Associated with this trio was "Red" Clare, said to be the best crap game operator in the Northwest. I have now accounted for four of the principal owners of the gambling joint at 818 Hennepin Avenue. 170

Morgan and Bevans held the reins because of their ownership of the Twin City Reporter. It was in their power at any and all times to "break the game" by exposing it through the columns of their paper, but: THEY HELD THE REPORTER OVER THE HEADS OF POLICE OFFICIALS EXACTLY AS THEY USED IT TO INTIMIDATE THEIR CO-PARTNERS IN THE GAMBLING FIELD— JUST AS THEY USED IT TO BLACKMAIL UNFORTUNATES WHO HAD STUMBLED AND FELL OVER THE "MORAL CODE." 171

Bear this in mind:

Our attack last week was aimed at but two targets: The gambling syndicate operating openly at 818 Hennepin Avenue and the Twin City Reporter, BOTH OWNED IN WHOLE OR IN PART BY J. D. BEVANS AND ED MORGAN, EDITOR AND OWNERS OF THE TWIN CITY REPORTER.

I have refrained from mentioning the fourth beneficiary of the gambling joint. THE WINNINGS WERE SPLIT

172 "FOUR WAYS." I shall leave the fourth bucko out of the picture for a time, trusting to the impending Grand Jury investigation to smoke that individual out of his hole.

Guilford was shot deliberately and as the climax to a well defined plan. His assailants made the fatal mistake of not familfarizing themselves with the boundary lines of our city. THEY INTENDED KILLING HIM WITHIN THE CORPORATE LIMITS AND THEY MISSED THEIR INTENTIONS BY ONE HUNDRED FEET! Why?

They thought that by staging the murder within the
173 city limits THEY WOULD BE INCURRING LESS CHANCE OF PUNISHMENT. They thought their chances of escape would be better. THEY HAD NO FEAR OF THE MINNEAPOLIS POLICE DEPARTMENT! Doubtless they were told that their case could be "fixed" if the shooting were to take place inside the city limits BUT THEY KNEW THEY COULD NOT "FIX" SHERIFF EARLE BROWN. Therefore they thought they were "playing safe" when they followed Guilford from his home in Robbinsdale until they, as they thought, had crossed the line into Minneapolis, and they began shooting JUST ONE HUNDRED
174 FEET TOO SOON.

There's no question in the mind of any fair-minded man or woman as to where the moral guilt lies in the attempted assassination of H. A. Guilford, one of the editors of the Saturday Press. We attacked but two "institutions"—the Twin City Reporter and the gambling syndicate in which the owners of the "scandal sheet" were heavily and personally interested. We were threatened with death if we dared expose the gambling den at 818 Hennepin Avenue. We exposed it and five days after our paper was off the press Mr. Guilford was shot by gunmen—men who had not been

mentioned in our columns—men who were unknown to either of us—MEN PLAINLY HIRED TO ASSASSINATE ONE OR BOTH OF US. 175

I have mentioned that few copies of our first issue were distributed in the city. I am going to tell you why they were not sold on the streets. Both Mr. Guilford and myself have had some experience with street sales of publications that bluntly criticized the police departments of this city under other administrations. We may not have directly criticized the departments but we have at divers times, trod none too gently on the corns of administration favorites and for this we have been barred from the news stands. 176 We know something, therefore, of police methods in suppressing publications distasteful to the "powers that be." Hence WE PLACED OUR PAPERS ON NO NEWS STAND IN THE CITY. We mailed to many prominent men, associations, clubs, jurists, attorneys—to those we HOPED would be interested in seeing Minneapolis freed of the moral octopus that has been its curse for the last few years, but we placed NONE on news stands. And here is the joker:

I was informed a few days later (Tuesday afternoon of this week to be exact) that coppers had warned every newsboy to "take the Saturday Press off your stand." Officers, "orders is orders." You obeyed some one in authority. Wouldn't it be interesting to learn who in the police department was so intensely interested in seeing the Saturday Press PUT OFF THE NEWS STANDS THE DAY FOLLOWING THE ATTEMPT ON MR. GUILFORD'S LIFE? I have a hunch that the taxpayers would insist that that individual's salary be raised—off the list, and dropped into thin air. 177

In closing, I wish only to say that:

The Saturday Press will continue publication and if the police department of Minneapolis prevents its sale on news stands, WE WILL MAIL IT, five copies through the mail for every one we could possibly sell on the news stands.

Remember Editor Don Mellett, of Canton, Ohio!

A FRIENDLY TIP

(Reprint from Our First Issue)

Word has been passed to both Mr. Guilford and myself within the last week that if we persisted in our expose of conditions AS THEY ARE in this city, we would be "bumped off." Just a moment, boys, before you start something you won't be able to finish:

The open season on editorial writers ended with the assassination of Editor Don Mellet of Canton, Ohio, by an imported gunman.

The hired assassin met Mellett as the latter stepped from his garage one evening and shot him down in cold blood. It looked like a "clean job" and it was. It was so clean that when John Law got through mopping up on the underworld of that city, a chief of police and several perfectly good gunmen were stowed away in the sorrow foundry for long terms. How many of you tough birds are ready to act as nurse to a Stillwater twine machine for from ten years to life? None! I don't blame you. There's nothing like the great outdoors even if the pork chops don't always overlap!

Make no mistake about this—WE ARE GOING ON THROUGH, and if anything happens to either of us, "accidental" or otherwise, the stage is set so that within twenty-four hours after the "accident" happens, old Sir John Law

will begin stuffing Stillwater penitentiary full of certain 181
gentlemen and before he finishes, that model institution will be so overcrowded that the last few dozen will have to sleep with their legs out the windows.

Now, if you think I'm kidding, just ring your machine-gun curfew and watch the hegira begin.

Commercialized gambling—no "gentleman's game," mind you, but skin games pure and simple—is in the hands of a coterie of selfstyled "bad men"—men who "cut and shoot," i. e., "cut" the cards crooked and "shoot" the fleeced sap out the door. Square gamblers (and there are more of 182
that class than Mr. Average Citizen believes exist) hardly dare drop a copper cent in a gum machine for fear of incurring the wrath of the privileged gang or the "powers who be."

It is idle to say that gambling can be driven out of any city, be that municipality large or small. It can not be, for in the breast of every human being, Nature planted a spark from the eternal fire called "Chance" and wherever men and women congregate, in club or at social gathering, that spark fans to tiny flame or all-consuming blaze. Kismet, it is Fate! But: 183

Between the social game where stakes are small and friendships never broken and commercialized games SUCH AS EXIST IN THIS CITY, there is a gulf as fathomless as the blue vault above. It is against the latter that we wage our fight. If it is to be our last fight, so be it, but gang rule of Minneapolis HAS COME TO AN ABRUPT END, with our assistance if we live, without it if we are checked out.

Present conditions are no longer endurable. They have become nauseating not only to the socalled "better class"

of citizens but to the better class of the socalled "under-
184 world" and they are going to end, not "sometime" but NOW.

Cordially and emphatically,

—The "Old Man."

THE SATURDAY PRESS

A WEEKLY "WHO'S WHO AND WHY"

The Northwest's Snappiest Newspaper.

Business Office, 240 South Fourth Street

Two Dollars per Year in Advance

185 On Sale on News Stands, Everywhere, Every Thursday.

OUR MOTTO:

Laugh and the World Laughs With You
Grouch, and You Grouch Alone.

HOWARD A. GUILFORD

J. M. NEAR (The Old Man)

Editors and Owners

A First Class paper, mailable everywhere but not entered as Second class Matter anywhere.

Dealers and Subscription Agents Wanted. Liberal Commissions.

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TO OUR READERS:

The articles signed by Mr. Guilford were written by him on Friday of last week, four days before he was shot down by a hired gunman. If he recovers, he will be back on the job with a pen sharpened by many days of agony and I pledge you he will be less lenient in his language in future issues.

—J. M. NEAR.

GIL'S CHATTERBOX

Somebody may have colored my glasses, but it seems to 187
me that Tex Rickard cleaned up pretty well on his recent exploitation of class hatred, when one hundred and fifty thousand working people journeyed to the Windy City and paid forty silver beams of prosperity apiece to see a pair of millionaires thump each other around a ring. As near as I can dope out the press reports, Dempsey hit both the box office and Tunney for a half million and Tunney hit the bank with a million. But all these little side issues have nothing at all to do with the attempt of our local school teachers to get their wages raised. It seems to me that our 188
teachers are getting enough now for what they are doing. The three "R" racket is out of date. When our schoolmarms get to instructing our kids in something worth while, then sezzi, give 'em more money. Left hooks and right crosses mixed up with murderous smashes to the midriff are what bring fame and fortune. What self-respecting kid wants to grow up to be President for a paltry seventy-five thousand a year?

Well, everything has sort of slid back to normal again this week, with one-half of the population agreeing that 189
Tunney always was the best man anyway, and they knew it all the time, while the other half agrees that if the referee had started counting when he should have, in that seventh round, Tunney would have been licked and the best man returned the winner. So that's that.

All I've got left to worry about now is to find me one of those Legionaires who didn't get kissed out of his right senses by rapturous Paris gentlemen, and ascertain what the Legion meant by resolutin' their approval of air progress. When it comes to air navigation, I'm a pessimist. I can

190 get up as high as I want to go and still keep both feet on the ground. And as for progress—Lindy made the grade all right, but what about the others? The Columbia got over, and took one Jew out of here to Germany, but he threatens to come back to America, so where is the progress? And the rest of them didn't do so well. Those that were blessed sky pilots met the same fate as those who received the O. K. of an infidel mechanic.

And the Mayor of Indianapolis "drew the works" while one-fifth of the Memphis police department got caught in a liquor ring. Looks to me like too many public officials
191 are careless—if not to begin with they get that way. It's just a question of mentality. Crooked officials seldom get humpbacked carrying brains around with them, and it isn't hard to find out what they are doing, or what they have done, particularly when the whole world is in on the plot. Officials who have been in office twenty years and bear good reputations are either darned honest or mighty smart. If they've been honest they've been smart unless they stole something they could carry home without any help. For instance, an honest cop wouldn't steal his neighbor's onions, and a smart
192 cop wouldn't either, because the neighbor would smell them cooking. A public official can not fill a niche and feel an itch at the same time. Those Memphis police should have known that they couldn't deal with a large part of the underworld without leaving a trail as plain as that of an elephant in a snowdrift. Which makes me think of Isadore McNutt, who knew too much to be a harness bull in a graft administration but not enough to pass the civil service examination of the hod carriers' union, so he ran for the school board and was elected by an intelligent electorate.

Now, before putting the cover on the chatter-box for the

week, I'll rise to remark that my opinion of men slightly 193
differs from that of Bobby Burns. I'll put it this way—a man is what he is and not what he is dangled before the public to be. He is true to form, just like a dog. Put old Towser in the bathtub and scrub him, spray him with bergamot and turn him loose. Does that make him a perfume demonstrator for a department store? Nix cum raus. Towser will locate some delicious fish thrown out by the neighbors last June, roll in it, and come home—plain old Towser.

194

My Old Home Town

I've talked with men from the sunny South,
And men from the Golden Gate;
Men from the forests of Oregon
And men from the Lone Star state.
I've sat and smoked
And chinned and joked,
With the country's very best;
I've talked a gale
And swapped a tale
With men from the Great Northwest. 195
But the thing most dear
For me to hear,
In my wandering up and down,
Is the man with the tale
I don't care how stale
From my little old home town.

NO COWARD, THIS MAN GUILFORD

When the killers drove alongside Guilford's car last Monday morning and began shooting, his sister-in-law, Miss

196 Esther Siede, sought to shield him by throwing herself between Howard and the snarling guns.

With one hand on the wheel to keep the car from crashing into the curb, Howard threw her back against the other side of the car several times, at the same time making frantic efforts to get his gun which he had dropped in the rear side pocket of the car before leaving home.

Had he not pushed Miss Siede out of the line of fire she would have received the bullets intended for him.

"Life is sweet," he said to me, with his face twisted in pain, "but not so sweet that I would preserve it at the cost
197 of a woman's life."

And the dirty curs of gangland would murder a man like this!

Where is our boasted "law enforcement league" that it suffers killers to remain in our city that they may shoot down MEN who refuse to accept life at the expense of womanhood?

Where is the six thousand dollar per year champion of "law enforcement" that he doesn't ACT to cleanse the city of gunmen?

198 Why, the poor fool hasn't the courage to attack anything more "deadly" than a bootblack's baseball "pool," or chase a few urchins out of an alley "frolicking bones" game.

When MEN exist who would rather die than seek shelter behind the body of a woman, there are hopes for our civilization. I wish there were ten thousand Howard A. Guilfords in this city. If there were—God pity gangland.

And again we arise to inquire, why and how Brer. Chawles Gee Davis can find a baseball pool game with one operator and an occasional "sap" but can't find 818 Hennepin, the

Twin City Reporter's palatial den with its corps of trained and imported operatives and its multitude of saps? Will Chawles please answer? 199

And 818 Hennepin "won't" close?. Don't let them kid you—it WILL—pronto and tight.

Two titled wops recently fought a duel over the auto old question of right-of-way. They used swords instead of cranks and trouser-holds as per the Nicollet custom.

200

IF SO, WHY?

To date our "tips" have proven one hundred and eleven per cent good. One that we believe will hold the percentage at or near its present level is to the effect that Chief of Police Brunskill visited the County Attorney's office shortly before he left to take in the Dempsey-Tunney fight at Chicago to learn if something could not be done TO STOP THE SATURDAY PRESS FROM BEING PRINTED AND CIRCULATED IN THE CITY.

If that rumor is true, then I must congratulate the doughty chieftain on the futility of his visit. I might also legally and rightly inquire WHY the chief was so intensely interested in TRYING to suppress a paper whose publishers had frankly stated, three weeks in advance of the first issue, that their purpose in launching their paper was to suppress protected gambling in the city of Minneapolis? 201

Neither Mr. Guilford nor myself made the slightest attempt at keeping our intentions secret. We have a few friends in the Court House and some in the City Hall and whether the chief believes it or not, several of them in the

202 police department, and we told them all, including as many others as we could reach by word of mouth.

I am not charging that Mr. Brunskill DID make the attempt Dame Rumor says he made, but in view of the fact that on the day following the gang's attempt to murder Guilford, a friend and a former newsboy came to the house and told me that POLICE HAD VISITED LOOP NEWS STANDS AND ORDERED THE BOYS TO "QUIT SELLING THE SATURDAY PRESS," I shudder to think how close to the truth that rumor MIGHT have been.

203 The beauty of it is, that not a single copy had been placed on any news stand! The weary tramp from stand to stand was an empty gesture.

IF the chief felt himself constrained to visit the County Attorney in hopes that he could head off the calamity about to befall the pompous Ed and not have left until he was certain the catastrophe had been averted—but he did!

According to the Journal which I love to read because of its funny attitudes and editorials, Chief Brunskill arrived in Chicago in time to be seen by the Journal's sport editor

204 and later in the evening, take in the fight.

He is also said to have lingered in the city of machine gun sharpshooters long after Messrs. Dempsey-Tunney and the thoughtful Tex, had folded their greenbacks and stolen quietly away. In brief, all during this hectic series of days in his "ol home town" the chief has been attending, so Dame Rumor has it, a meeting of some sort down in "Chi."

We didn't all know it, but while the Saturday Press was quietly circulating through avennes provided by our genial Uncle Sam—while gunmen were shooting down one of its editors, we were a municipality without a chief!

Then after the smoke of battle had momentarily been wafted away, our chief returns. Happy day! 205

Which same brings us back with a jerk:

If the rumor were true that the Chief visited the County Attorney in search of some legal lariat with which to "hog-tie" the one paper in Minneapolis whose publishers have the courage to demand that the PROTECTED gambling den at 818 Hennepin be closed and its "lean-to"—the Twin City Reporter and that sheet's gangsters close up shop and GO, then methinks the Chief had better begin making excuses for his visit.

I have no particular club in pickle for Chief Brunskill 206 but I refused to be swerved one inch from the purpose my buddy and myself had in mind when we started publication of the Saturday Press:

AN END TO GANG RULE IN MINNEAPOLIS: and gang rule in this city means RULE BY THE TWIN CITY REPORTER GANG OF RUFFIANS. Chief or gangman to the contrary, THAT RULE ENDS!

Dangerous words: "Stranger, have a drink with me?" 207

When is a man drunk? A Los Angeles, Calif., policeman gave his definition: "When he gets so piped that he lays down on the front lawn and hangs to the grass to keep from slipping off the earth." Experience or just suspicion?

If Prohibition lasts another ten years, half the American people will be cross-eyed. Condition brought about by looking askance at every stranger.

208 BUNGLING STRATEGISTS

(By H. A. Guilford)

A clever piece of work—almost as clever as the work of a pickpocket who has spent most of his years in jail—was turned two years ago by collaboration between the police administration of this city and the Twin City Reporter gambling house located at 208 11th Avenue South. The gambling house in question was operating a high limit crap game that was calculated to "take off" between one hundred thousand and one hundred and fifty thousand dollars a year profit for the house. The proceeds were split several ways,
209 and the game was operated with the knowledge and connivance of city officials of Minneapolis.

The assistant currency teller of the First National Bank was discovered short in his accounts. In separating his money from the bank's, it developed that some of the bank's cash had stuck to his fingers—nine thousand dollars was the amount mentioned in the specific charges. He was arrested by Federal officials. He employed no attorney, admitted his guilt, and stated that he had lost all of the embezzled funds in the high limit crap game at 208 11th
210 Avenue South. Federal agents investigated the gambling house. There was considerable "heat."

A quick frameup was arranged. Joseph F. ("Red") Clare, the expert accountant of the crap tables at number 208, was set up in business at 204 11th Avenue, supplied with a pair of dice and bail money. He awaited the arrival of the police who were sent down to arrest him. He was charged with gambling with dice at 204 11th Avenue South, and his case continued five days. He pleaded guilty and was fined one hundred dollars. The daily newspapers published the fact that the police had raided a crap game at

204 11th Avenue South and arrested Clare, the proprietor 211
of the game, and that he had been fined. One daily published an editorial on gambling and its attendant evils, pointing to the fact of an embezzlement by a trusted bank employee who had lost his stolen funds in a gambling house "since closed by the police." But the gambling house was not closed. The big game operated at 208 11th Avenue South was never disturbed. It was operating full blast at the very minute the police arrested Clare at the dummy-joint two numbers away.

The unfortunate teller got four years for his slip, while 212
the bonding company made good his peculations. The gambling house then reimbursed the bonding company, Lloyds of London, and the mills of the Gods continued to grind life's leaden metal into grafters' gold.

Mr. Charles G. Davis of the Law Enforcement League, famous for his activities in suppressing all crime that interferes with the revenue of the big gambling and crime syndicate, expressed his stern contempt for law violation and tricky hoodwinking of the public, by utter silence. Although Davis delights in questioning all defendants who might give a slight insight into the shadows that darken 213
civic purity, and although the unfortunate bank teller was willing to tell everything pertaining to the loss of the funds he appropriated, a golden silence rent the air in the offices of King Richard the Third—Davis, the Lion Hearted Dick.

"Red" Clare and the Twin City Reporter boys made so much money on the 11th Avenue investment that they became opulent and lazy. They couldn't be bothered carrying money so far to the bank, so they recently moved to the second floor of 818 Hennepin, closer to the banks and financial district—handier for the next weak cashier or teller

they can throttle, ruin, and send to prison to be labelled convict, thief, and undesirable citizen.

WE CRAVE INFORMATION

Did the cheaters get cheated or did the wise boys merely "kid" the administration so they could keep going and rake in the shekels as long as possible? It has been known for some time that this publication was to be launched. The knowledge did not augur well for the peace of mind of ye local protected gamblers, nor for the manner in which their morning cup of broth would ride within their ma[illegible]. Nor did it cause heels to click in glee at the City Hall.

Early last week the news was handed to the gamblers that the publishers of The Saturday Press had been "taken care of" and everything was "all right." Imagine the horror and surprise of these humanitarian gentry with the crimped and iced hearts when the Press burst on them with an expose of their activities.

To these men we wish to convey our message. And here it is—it was not the fault of the gambling syndicate that the Press was not "taken care of." The weekly envelope was offered, AND REFUSED. And this was not the case, we are reliably informed, when the envelope was offered to certain scribes who tuck their feet under desks on Fourth Street. The publishers of this paper are serious. Organized gambling and Twin City Reporter blackmail and gang rule in this old town are through. The jaws of the trap are closing right now, and unless a few self-esteemed citizens purchase a one-way railroad ticket pronto, they are going to have plenty of time and opportunity to meditate on the evil of their ways. As a bonus they will also have a man

watching over them at night to see that no one steals their clothes. 217

For the benefit of those who did not read our announcement last week we will repeat—the publishers of this paper are both former editors of the Twin City Reporter when it was for sale at a nickel a copy only. The present management of the Reporter, with its blackmail methods, have made it impossible for its past editors to turn around on the streets of Minneapolis without explaining to someone that we were not with the Reporter when their brother, father, or sweetheart was blackmailed. It is dirty business at best, to exploit the failings of fellow men who have slipped a little, 218 and we both quit the Reporter because we felt that way about it. We now feel that we owe it to Minneapolis to rid the city of the sheet that has sunk below the base level of rotten journalism.

We are not tipping our hand, and we will print no sordid details. Neither will we replace the Reporter with another scandal sheet. But we are going through, and those of you who know us will know that we will bust through somewhere. The Saturday Press is not to be "fixed," "taken care of," nor headed off. We are advised that we are to be 219 "bumped." This is not going to be a bumper year, so if any real hardboiled gunmen are going to be sent, be sure and send one or two that won't be missed much.

We are not so much interested right now in the "bumping" threat as we are about what took place in the syndicate circle. Did a cheater cheat the rest of the cheaters and collect himself some easy money, or did the "heavies" give out the "fix" dope to bolster the waning courage and cheer the fainting heart of the weak sister who is referred to among the gambling fraternity as the "City Hall." We crave information.

220 MR. CHARLES G. DAVIS

We are not attempting, in the columns of this publication, to make an issue over Charles G. Davis of the Law Enforcement League. He is too small a fry for us to bother about, or waste much space over. We are merely putting him on record and placing him in a position where he must either fish or cut bait.

We made the assertion in the last issue that Charles G. Davis has never raised a finger in connection with gambling that was not calculated to better the income of the protected gambling syndicate which is headed by the Twin City Re-
221 porter, and the "fixing" done by the Reporter which seems to bask in a sort of social red light around the City Hall. We repeat that statement. We do not allege that Davis is being taken care of in a financial way. He may be afraid of the publicity which the Reporter might give—he might tremble in his boots at the suspicion of an underworld gunman hunting for him—there are several possible reasons. We do not know which one to accept, but we do know that the result is the same. Charles G. Davis is the tool of the graft ring in this city, and the aidor and abettor of
222 Twin City Reporter wealth.

That is a bold statement to make. If it is not true we are guilty of criminal libel. We want to hear from Mr. Charles G. Davis. We want Mr. Davis to explain—if he can—how it happens that he flutters around every grand jury, never forgetting to collect his dollar and twelve cents for each and every appearance, hints at civic vice but never produces any evidence against the big boys, keeps the pot boiling and his name in the papers just enough to harvest the sucker crop that contribute toward his six thousand dollar a year salary, keeps in the good graces of the decent

element of Minneapolis, stands in high esteem with judges and police officials, and never incurs the ire of the real underworld. 223

If we are liars, then Davis is on the square and Minneapolis is a clean town. If we are telling the truth about conditions, then Davis is a fourflusher—either a crook or else an ignoramus who doesn't know enough to be worth six dollars a year, or possibly a yellow backed crusader who fearlessly poses before a judge in chambers or a poor, weak culprit who is being third degreed, and fearfully assures the gunmen of the underworld that he will not molest them.

We publish this in an almost apologetic attitude—we are sorry that it is necessary to make an attack upon a man who is not an open part of the graft plunderbund of Minneapolis—but we deem it necessary to do so. We know our fusil oil and our city; and we know where Mr. Davis has, in the past, sneaked through byways and endeavored to pull the fat out of the fire for the grafters and corruptionists that are today standing pretty close to the powers that be in underworld circles. The Mr. Davis we know is not the Mr. Davis who is portrayed to the public by Mr. Davis et al. 224 225

We want Mr. Davis in the open. If he is on the square, let him step into the circle of fire, along with us. We will risk a gangster's bullet, and in what way is his hide so precious? If he is not on the square, it is high time that he is shown up to the people who have been mistakenly contributing his salary under the impression they were doing something for the good of the city. A coward or a crook are on a par in Davis' game. It makes no difference whether fear or gold sway Davis—the result is the same, and we've got to smoke the long boy out.

226 THE BEAUFORT GAMBLING RAID

The Law Enforcement League of Hennepin County came to life last week and staged a raid on a gambling venture in the basement of the Beaufort Hotel. The raid was led by Mr. Davis in person, with a supporting cast consisting of Mr. Kilbride of the City Attorney's office and four flat-feet "supers" requisitioned from among Minneapolis' finest.

Three hundred dollars in loose change, scooped off the poker tables and the floor, was confiscated to replete the city's fast dwindling funds, and five hundred more was levied in fines.

227 The raid was a wounderful coup, and eliminated a poker game that has been drawing trade away from the gambling syndicate's Monte Carlo on the third floor of the West Hotel. The West Hotel game was opened six weeks ago, simultaneously with the Law Enforcement League Grand Jury investigation of baseball pool gambling. A few uninformed humorists, who thought they'd have some fun at the Beaufort, opened a game there. The game detracted somewhat from the glamour of play at the West, and the uninformed soon felt the iron hand of the league for law
228 enforcement—law enforcement in all except a few places.

The Journal owes a technical apology to Roy A. Young, governor of the Minneapolis Federal Reserve Bank, for the undeserved and unwarranted prominence it gave him in its issue of Sept. 21, but as it has thus far failed to deliver the apologetic epistle, the Saturday Press herewith makes delivery thereof, etc.

Perched jauntily at the top of a front page column was Mr. Young's journalized photo with the usual identification

heiroglyphics but directly under and separated only by a dim-lined dash we read: 229

"Gambling Raid in Loop
Hotel Nets City $800"

The unsophisticated ruralite might garner the impression from the location given Mr. Young's portrait that in some magic manner that gentleman was connected with the loop roundup and we wish to correct any such erroneous impression. He was not. Keep the change, Journal!

The "Voice of the People" two decades hence: "Pst! Sh! Phist! Wzzzz! 230

AN OPEN LETTER TO THE LAW-ABIDING CITIZENS OF MINNEAPOLIS

On September 24th, the first issue of the Saturday Press was mailed—it could not be offered to you on the news stands—to hundreds of the most prominent citizens, associations, clubs and organizations.

That issue offered you the first opportunity you have had in many years, to purge this city of two social cancers—the Twin City Reporter and the PROTECTED gambling 231 syndicate owned in part and protected largely by, the men who own and publish the Reporter.

We who publish the Saturday Press have in years now long gone, edited that sheet, but while we frankly admit our former connections with the vile rag, we come to you, not humbly but sincerely and ask that we be given an opportunity to clear our names of the odium. We ask that you take into consideration the FACT that during our connection with the Reporter, neither of us were ever indicted for blackmail or attempted extortion. We submit that we were

232 guilty of capitalizing the shortcomings, the moral falls of our fellow men, but we were guilty only of catering to the subnormal element admittedly present in all. In brief, we commercialized the downfalls of our fellows to the extent that we exploited their misdemeanors. With age there comes a clearer vision.

During these years since we, sickened of the disreputable calling, severed our connections with that sheet, our names have been used by the present owners of the Reporter, times without number, in their blackmailing schemes. How many times, only the gods know.

233 A few weeks ago, Mr. Guilford and myself, embittered by our efforts to outlive the malodorous record given us by the harpies who have waxed wealthy on the myriad sums extorted from their victims, pledged our every effort, our lives if need be, to rid Minneapolis of that menace to everything decent, the Twin City Reporter.

Friends, it is the foulest rag that ever flaunted its pages in the face of civilization. Within the last eight years, under the management of J. D. Bevans, who later accepted Ed Morgan as a co-partner, the sheet has sunk so low in 234 character that the foulest imp of the nether regions would blush to own a single page. It has become the club with which the lowest stratum of the underworld threatens your social and official life. Through its influence (that of fear) it has built up in this city a horde of Apaches, thugs, gunmen, thieves. It has corrupted and not always through fear, a certain element in your police department. It has defiled and defied your Law Enforcement organizations. It has debauched the morals of your children. It has poisoned the minds of your boys and girls with its foul tales of lechery and stories of lust. It has gone farther than that:

It has created a giant gambling syndicate where your boys are hurled headlong into careers of crime. Today it flaunts its foul pages in your faces as you pass down the streets and dares you to molest it—taunts you, with lascivious headlines, of your impotence and lack of power to crush it. It stalks with brazen effrontery through your local "Hall of Justice" and Justice cringes at its approach. 235

No man, no men, no publication, until this, have dared defy these gangsters who have so long ravished your city, your sense of decency, your civic pride and because we who have dared hurl our defy straight into the faces of gangland, one of us lies tonight on a cot in St. Barnabas hospital —the victim of HIRED ASSASSINS. 236

We knew when we threw down the gauntlet to the Apaches and thugs of this city—to the Twin City Reporter and the element with which its owners have surrounded themselves —that our lives might be "the price we paid" for our temerity. But, someone had to go. It had as well be we. Others had wished. We acted.

And so, one evening not long ago, we stood with clasped hands and swore that come what might, though our lives paid the forfeit, we would purge Minneapolis of the gang who have robbed you, who have debauched your children, who have stolen the honor of your boys, who have sullied the reputations of your daughters—rid your city of these social lepers OR DIE IN THE ATTEMPT. 237

How well we have kept our pledge thousands of you already know—your daily papers, while fearful of incurring the wrath of gangland by themselves exposing CONDITIONS AS THEY ARE, have at least been fair enough to give you an account of gangland's attempt to murder one of us.

Friends, we went into this fight KNOWING our danger.

238 WE KNEW THE TWIN CITY REPORTER'S GANG OF APACHES. We were told BEFORE WE PUT OUT A SINGLE COPY that gangland would demand a "receipt" if we dared expose them and that "receipt" meant our lives. Life is sweet to all of us—even to Mr. Guilford and myself. We were offered our choice—"LAY OFF OR DIE." We didn't "lay off." We may both die, BUT WE'RE GOING ON THROUGH.

Last Monday evening when I called at the hospital to see my wounded buddy, he held out his hand to me and, stifling

239 a moan of pain, he said:

"Old scout, I KNOW YOU WON'T QUIT. Go on. Give 'em hell. I may be with you in a few weeks, but we won't weaken, will we? Tell 'em THAT WE'VE JUST BEGUN TO FIGHT."

Friends, this isn't all OUR FIGHT. We have nothing to gain and our lives to lose. But WE'RE GOING ON THROUGH!

And you are going to help us. We've GOT to have your help, YOUR help, not your neighbor's but Y-O-U-R-S.

240 We are not asking you to face the bullets of gunmen. We are not asking you to risk your lives, BUT WE ARE ASKING YOU TO SEND IN YOUR OWN AND YOUR FRIEND'S SUBSCRIPTION BY THE FIRST MAIL, for we've got to have funds. Gangland is well fortified with finances and gangland isn't stingy. You can't be. Not in this instance—not an "instance" but a CRISIS.

I spent an entire day this week calling on some of our most wealthy men and I got:

More well-meant advice than I ever received during all of my 55 years on this planet.

I DIDN'T KNOW THERE WERE SO MANY PENNILESS MEN IN THE MILLIONAIRE CLASS! It astonished me. 241

These men do not understand the seriousness of the present situation. They are not callous, they are not indifferent, they are not penurious, they are BLIND. They have poured thousands of dollars into a fund upon the assurance of its promoters that their money would be used to rid the city of vice and crime. They HAVE BEEN HOODWINKED, BUNCED! And they don't know it. They refuse to believe it, BUT THEY HAVE!

In the shadow of their "crime-suppression" organization, there has been built up a colossal criminal ring. Never in the last thirty years has Minneapolis been cursed with such a criminal syndicate as exists in it today. The daily papers know I am speaking the truth BUT THEY DARE NOT EXPOSE CONDITIONS AS THEY ARE, AS THEY KNOW EXISTS! 242

They admit in their news columns that a gang in this city has boasted that they WILL KILL ANY ONE IN THE CITY FOR FIVE HUNDRED DOLLARS! Are the daily papers, are the police, making any effort to run down that gang of willing-to-kill ruffians? They are not. 243

One underworld character has boasted that he would organize and train his own gang of killers in Minneapolis; that he would build up an army of Apaches in this city that would outdo the gunmen's union of Chicago?

ARE YOU CITIZENS OF MINNEAPOLIS READY AND WILLING THAT THIS CITY SHALL BE TURNED INTO A SHAMBLES?

Are you anxious to have machine gun gangs spraying their

hail of death on innocent bystanders, on your wives, children, husbands, fathers and mothers as they go about their peaceful way in your downtown shopping districts?

But you "have the law to protect you!"

When the law winks at the operations of a gambling syndicate in the very heart of your city—when the police department coolly informs you through the columns of your daily papers that it "has no knowledge" of a gambling joint operating at 818 Hennepin Avenue—when every man in the city who listens as he walks, KNOWS the joint operated there; knew that it, for four years operated at 208 11th Avenue South WITHOUT MOLESTATION by the police, pray tell me how you expect protection from machine gun murderers? from gunmen killers of the type who shot down Mr. Guilford?

Even the Tribune—even the Tribune!—in a front page editorial a few days ago, querulously asked:

"LAW AND ORDER—OR WHAT?"

Citizens of Minneapolis, it is YOU who must answer that question. It is up to YOU to say whether this city shall have law and order or anarchy or worse. And you haven't long in which to make up your minds. One man has already been shot down in cold blood because he championed YOUR cause and demanded that gang rule END and before you may have time to act, others will have gone down under a leaden hail from the guns of that Apache army NOW MOBILIZED FOR ACTION UNDER THE NOSE OF YOUR POLICE DEPARTMENT AND PRIVATELY FINANCED LAW ENFORCEMENT BODIES!

Are you going to wait until this Kaiser of the underworld sends his machine gun army roaring through the streets of Minneapolis? Are you going to delay action until this city

becomes another Chicago? Until gangland becomes so powerful that you will not dare act? 247

The Tribune—even the Tribune: That ultra-conservative journal, warns that a crisis is at hand. IT IS!

So, I am coming to you, YOU who understand—you who love your children; you who love your city; YOU who actually wish to see Minneapolis free of gang rule; YOU PEOPLE WHO REALLY CARE, to ask that you send in a subscription RIGHT AWAY. Send in as many as you can. Get them in quick: Not a dime will be wasted, not a cent used for any but legitimate expense. 248

Both of us are willing to risk our lives—have risked them—Mr. Guilford may have GIVEN HIS LIFE—he has already gone through a hell of agony—and gangland sneers. Gangland THINKS you won't respond!

Gangland THINKS you dare not defy it. Gangland THINKS you too cowardly to fight it. ARE YOU?

I know you are not. I know what your answer will be.

Let us show the Reporter and its gang of Apaches THAT WE HAVEN'T FORGOTTEN DON MELLET!

Let's clean up on this ruffian horde ONCE AND FOR ALL. 249

We are taking the risk. Will YOU help carry the load? Alright then, LET'S GO ON THROUGH!

Yours for a gang-free city,

J. M. NEAR (The Old Man)

250 EXHIBIT 3.

THE SATURDAY PRESS

Minneapolis, Minn., Oct. 8, 1927

Vol. 1, No. 3 Price 5 Cents

A FEW OF THE 'UNSOLVED' MINNEAPOLIS MYSTERIES

Police "Baffled" in Their Attempts to Identify Acid-Throwing Thugs Who Assaulted Samuel Shapiro AFTER He Had Been Threatened by Mose Barnett. Guilford Shot Down in Cold Blood by Gangsters AFTER He Had Been Threatened by Mose Barnett. Will the Present Grand Jury Act?

251

Mr. Brunskill, last week, took upon his brawny shoulders the burden of suppressing this publication on news stands and other news agencies operating in the city, therefore I feel no twinge of conscience when I ask my readers to bear with me for a short time while I call attention to some of the seemingly unexplainable things that have happened recently in this city.

252 One morning about a week before the Saturday Press made its appearance in the city, the public was startled to read in the daily papers of an outrage committed by a gang of gunmen.

Samuel Shapiro, a Russian, owns a small dry cleaning shop out on East Franklin avenue. He has been a resident of this city for more than a quarter of a century. He has been a law-abiding citizen. He has attended strictly to his own business, interfering in no other man's affairs. As long as he was content to work for someone else, Sam Shapiro was unknown—he was not molested. Then one day he declared his days as a wage-earner had come to an end. He

was launching out into the business field "on his own hook," financed by Sam Shapiro and none other. And right here I ask you as man to man IF SAM SHAPIRO HAD NOT THE RIGHT UNDER OUR CONSTITUTION TO LAUNCH HIS TINY SHIP ON OUR COMMERCIAL SEA? 253

As long as his business remained practically nil—as long as his strict attention to business bore only small fruit—his competitors ignored him.

And then one day they or that portion of them that had formed themselves into a "trust" or "combine" or an "association," as you prefer, served notice on this small business man that he MUST join their "alliance" or "combine" or he would be put out of business. 254

Well, you stroll down to Sam Shapiro's dry cleaning shop some day and look him over. If you see anything about the man that would lead you to think him easily intimidated, go ask your family physician what ails you, for you're slipping!

Politely but pointedly, Shapiro told his competitors where they were welcome to go. He tried to make it plain to them that he was capable of running his own business without their assistance and he seems to have made himself understood. In brief, they "got his message" direct. 253

And then things began to happen to Sam—things unexpected, things unpleasant, things that would have "wilted" a man of less courageous fibre.

One of his deliverymen was robbed. Another was waylaid by two thugs who started to "sap up" on him but desisted when one of them discovered their victim was a schoolmate. Remember this positive identification, please.

A short time later Shapiro discovered that some "friend"

had poured sulphuric acid into his hi-grade gasoline which he used for cleaning and had he not discovered the acid-loaded stuff in time, he would have ruined several thousand dollars worth of his customers' clothing.

All these acts Sam Shapiro reported to the police department, but no arrests were made.

One morning a "tough bird" entered Shapiro's store and bluntly informed the proprietor that: "I am Mose Barnett. I'm the guy who shot Roy Rogers at Sixth and Hennepin Avenue" (and he might have added that he wasn't detained at police headquarters long enough to finish a half smoked stogie, for that act!) But if Mose Barnett thought for a moment that he was "heaving a scare" into Sam Shapiro with that declaration of tough-identity, he was mistaken. Shapiro merely lifted his eyes and looked the gangman over thoughtfully so "Moe" babbled on to the effect that he was sent down by his employers, the firms composing the "alliance" or "gang" or whatever you care to call them—(sure, the grand jury can have their names at any time!) with instructions to "bring him into camp as a member or let him take the consequences and once more Sam Shapiro let his eyes stray easily over the gangster's insolent shape.

"And what would be the penalty if he refused?" Again "Big Moe" waxed garrulous. Sam was credulous as well as adamant. He felt that he knew his business and the "combine" hadn't elevated themselves in his estimation to any marked extent by past acts or present emissaries. He was just a trifle choice of the company he kept. Business firms who employed gangsters to beat up poor devils who drove delivery trucks and who paid sneaks to mix destructive acids with cleaning fluids didn't appeal to Sam Shapiro as being "desirable associates."

Moe admitted that Shapiro HAD been damaged to the extent of one thousand dollars and promised that on the following day he would bring two of his employers down to Shapiro's store where the quartet would engage in a friendly "jaw-fest" and get the matter settled. Shapiro is willing to give Moe credit for trying to keep his promise. The three, Moe and two of his employers visited Shapiro the next day and served an ultimatum to the effect that he must join the "association" first and accept a settlement later. 259

The "initiation" fee was one hundred dollars and the monthly dues equalled ten pesos more—a nice total of one hundred and ten dollars Shapiro was to pay IN ORDER TO BECOME A MEMBER OF THE GANG WHO HAD ALREADY DAMAGED HIM TO THE ADMITTED EXTENT OF ONE THOUSAND DOLLARS. 260

Think what a miserable piker Jesse James was! Why, Jesse rode a horse AND SLEPT OUTDOORS!

Once more Shapiro's eyes swept three forms instead of one with that same steady, almost gentle, glance and the meeting ended. A few days later he received a registered letter which contained an application for membership with a curt request for a prompt reply and one hundred and ten dollars. Well, it hasn't been answered yet. 261

Shortly after, he received a phone call from Barnett, telling him that his "days of grace" had about expired and when "Big Moe" hung up the receiver, he knew once more where he could go with Sam Shapiro's full consent. Things happened fast after that phone conversation.

In the meantime Shapiro had reported these things to the police department but without result except that a guard was placed in his store for several nights.

The morning after the guard was removed an auto drove

262 up to Sam Shapiro's place of business and four men, heavily armed, rushed in and with vile oaths ordered Shapiro and his employes to line up against the wall. Shapiro was slow to obey and he was brutally beaten with a heavy gun. The gang worked swiftly. They sprayed acid over the entire stock and with an utter disregard for human forms. When they had finished, they drove away.

Again the police were appealed to. Were any arrests made? That's fool question six million and twenty-nine. There were NOT!

263 On the following Monday, one of the editors of this paper, Mr. Guilford, was waylaid by gunmen and shot down in cold blood. But these killers didn't know their geography! They shot too quick. Mr. Guilford was one hundred feet OUTSIDE the city limits and remembering how few arrests have been made since Mr. Brunskill has been chief of police I REPORTED THE SHOOTING TO SHERIFF EARLE BROWN and two days later the men who did the shooting were cached in the County bastile, after they had been POSITIVELY identified by both Mr. Guilford and his sister-in-law, Miss Esther Seide, who was with him at the

264 time of the shooting.

When one of the daily papers published the pictures of Guilford's assailants, Shapiro at once recognized them as the gangsters who had assaulted him with a gun and who had thrown the acid over his stock.

Did the police department get busy and arrest Mose Barnett, THE GANGSTER WHO HAD THREATENED MR. SHAPIRO? It did nothing of the kind. MOSE BARNETT IS WALKING THE STREETS OF MINNEAPOLIS TODAY, A FREE MAN, yet the police department KNOW, for Mr. Shapiro has so informed it, that Barnett was the

man who threatened him, who offered to "fix" it for him with his (Barnett's) employers, THE DRY CLEANERS' ASSOCIATION OR ALLIANCE, whichever the devil it is, if he would join them, and pay his tribute to the gang to the extent of one hundred dollars and that ten per month as "dues." 265

I call the present grand jury's attention to these failures on the part of the Minneapolis police department to make any arrests in the Shapiro case. I call their attention to the fact that Shapiro has positively identified the men whom Sheriff Earle Brown arrested for the assault on Mr. Guilford, as the men who threw the acid over his stock of goods. I further call their attention to the fact that the police made no arrests when four witnesses identified the thugs who beat Joe Lichterman, owner of the Radio Dry Cleaners in Midway. I call their attention to the further fact that Mose Barnett has never been arrested by the police for his direct threat to harm Samuel Shapiro and the fact that less than ten days AFTER that threat was made AND REPORTED TO THE POLICE, Shapiro's place of business was forcibly entered by armed men and his stock destroyed by acid thrown by these same men. 266 267

I suggest to the present grand jury that it at once launch an investigation to determine WHY MOSE BARNETT, KNOWN GANGSTER, ADMITTED GUNMAN, IS IMMUNE FROM ARREST in the face of the fact that he is KNOWN to have a "record," that he has threatened Sam Shapiro and his threat was later carried out; that he threatened Howard A. Guilford and once again Mose Barnett's threat proved to be well-founded. These things, gentlemen of the grand jury, ARE MATTERS OF COMMON KNOWLEDGE.

268 They are talked wherever men congregate. They are no longer things to be smiled at—they are things to be taken seriously.

BIRDSEYE VIEW

How the Prospects Appear to a Novice. Shipstead for Another Term or Worse the Next. It's Either Schall in 1930 or Shipstead in '28. Of the Two Evils Let's Have the Lesser.

(By J. M. Near)

269 Charley Cheney of the Journal staff is justly accused of being the best political writer and prognosticator in the Northwest but even the astute Charles occasionally views the political landscape through oblong glasses, thereby getting his prognostications all gummed up. For instance:

Charles intimates that Governor Theo. Christianson is the one and only Republican in the state who can snatch the crown from the Senatorial head of Dr. Henrik Shipstead next fall. In a valiant endeavor to prove the correctness of his view, he points to the Governor's "friendly enemies" who 270 would rush to his support the moment he announced his intention of entering the race against the Farmer-Labor senator.

With no desire to belittle the clever deductions of Cheney, I deny the correctness of his view and submit my reasons.

The man who goes against Senator Henrik Shipstead in the next campaign is already defeated and I am no lover of Shipstead—never voted for him, never supported him and it goes without saying that I never will. But:

If the enemies of Christianson wish to rid themselves of the governor, they can find no more certain and effective way

than to send him against Henrik Shipstead in the 1928 campaign. True, the present senator is a "man without a party," but whether he goes into the campaign under the apparent handicap of the Farmer-Labor label or tagged as an "Independent," the facts remain that Shipstead is unbeatable in 1928. Nationality cuts a mammoth figure in his case; past party affiliations assure him a solid block of ballots; personality, regardless of nationality, party or other ties, is an asset of no small dimension. To these add that faction of disgruntled voters who take a special delight in being "agin" any gubernatorial incumbent and you have Shipstead ten laps ahead of any opponent that may be put up against him. 271 272

Where the Journal writer fumbles the situation is, that he fails to comprehend the solidity of the almost expired Farmer-Labor party or the viciousness of the armed truce between the Schall-Davis forces.

Posing as a Republican, entrenched behind a court decision that stamped him as such, Schall stands willing to play ball with any and all factions who can deliver votes. He is famished for power. He has tasted the (though none too sweet) sensation of a term in the senate. He is determined to go back the second time if trading and trimming will enable him to do so. There isn't a subterfuge he wouldn't resort to nor a sacrifice (of friends but not of self) he wouldn't make in order to gain this end. 273

He has "teamed-up" with Tom Davis for the moment. When that other moment comes that promises a stronger alliance, he will "repudiate" Davis with the utmost nonchalance and align himself with a new and more powerful faction. Friendships, party lines, alliances, make no difference to Tom Schall. All is grist that comes to his mill. He

274 grinds them all and having ground, discards them.

As for Davis, he is human. The lure of office, while he will deny it, is irresistible. Politically he hates Magnus Johnson as fervently as does Schall and with possibly more reason, certainly more intelligently. Davis has a strong following but he cannot induce them to vote against Shipstead and he will not make the mistake of asking them to do so. It goes without saying that whatever influence Schall might have over the Davis following, due to his brief copartnership with him and the wild splurge given Tommy in the Davis paper, is and will be practically nil insofar
275 as it would favorably affect the Shipstead opponent. In brief, Schall couldn't deliver fifty votes from the Tom Davis faction. That following goes to Shipstead, 99 per cent solid.

The Magnus Johnson contingent will not knife Shipstead, ~~though it might gulp hard to swallow the Davis advice and~~ vote for the Dentist-Senator, it will gulp and vote.

If Schall should throw his "strength" against Shipstead, he would automatically hack from his 1930 list, every Farmer-Labor and personal-Faith-in-Shipstead supporter and don't think for a moment, gentlemen, that Tommy Schall
276 isn't thinking hard and planning seriously on that socalled "radical" vote in 1930. He'll need it and then some and he knows it. Hence he isn't going to support any genuine Republican candidate who may be put up against Shipstead next spring. And while Schall's following isn't what it once was, it is formidable when added to the Davis-Magnus-Shipstead forces.

While it must be admitted that the election of two Republican senators would be preferable, yet the time is not ripe for that gallant move. There is less danger to the party with Shipstead left in the senate for one more term and Schall

retired to private life in 1930 than to sacrifice one good Republican in a vain effort to unseat Shipstead. We at least know where Shipstead stands and not even the gods know where Tom Schall stands today or if today, then not where he will be standing tomorrow. 277

He has consistently voted more inconsistently than any other senator or congressman ever sent to Washington from any state. You who still harbor the hope that through some queer turn of Fate he WILL vote with the party, please recall that critical moment in Congress in 1916 when Tom Schall, elected from a Republican district by Republican votes, with a grand flourish of oratory and "as God gives me light to see," voted with the Democrats and made the election of a Democratic Speaker of the House possible. Champ Clark, a Democrat, was elected Speaker, through and only by the vote of Tom Schall—a "Republican." 278

Another crisis may arise during the present senator's term of office. As the representation now is, we can depend on Shipstead voting with the Republican party rather than with the Democratic and we have absolutely no assurance (and his record proves this) how Tom Schall will vote.

If it were possible to defeat Shipstead next fall and Schall two years hence, then it should be done, but the first is impossible and its failure will make the second more than an impossibility—it will be a calamity. 279

If the party leaders think Gov. Christianson the strongest man in the state today, by all means let them hold him in reserve until the 1920 campaign and then send him in to win against that menace to the Republican party in this state—Thos. D. Schall.

280 Talkative Spinster—This piece of lace on my dress is over 50 years old.

Bored Visitor—Oh, it's perfectly lovely. Did you make it yourself?

"That must have been paint-remover I drank last night."

"Howsat?"

"It took all the enamel off my teeth."

"Wish I knew what to get for father for Christmas. He likes to go after small game, but I can't afford to buy him
281 a shotgun."

"Get him a fly swatter."

"Wish I knew what to get for father for Christmas. He likes to go after small game, but I can't afford to buy him a shotgun."

"Get him a fly swatter."

OUR CZAR? OUR CENSOR!

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282 Chief of Police Brunskill, Instead of Arresting Known Gunmen, Members of the Gambling Syndicate Which the Saturday Press Has Exposed, Suppresses Sale of Last Week's Issue on All News Stands. Round One!

Who was the promoter of that trite remark: "By their acts ye shall know them"? I confess my ignorance and crave enlightenment. But:

Whoever the individual he was familiar with his java.

The sale of last week's issue of the Saturday Press was suppressed on the news stands in this city by orders of Chief

of Police Frank Brunskill. Not only were news stands for- 283
bidden to display the paper or offer it for sale, but orders were given to proprietors of drug store and other inside stands not to offer or display the Saturday Press under threat of arrest, etc., and then some. The uninformed and the would-like-to-be initiated naturally wonder why these orders?

The Press contained only an attack ON GANG RULE OF THIS CITY and if Chief Brunskill wishes to place himself on record as being in favor of gang rule rather than rule by law, he is at liberty to do so and I can assure him that the 284
Saturday Press will not further attempt to dissuade him from that course. He is of adult age.

Mr. Guilford, in the articles he wrote five days before he was shot down by gunmen employed by gangsters in this city, made no attack on Chief Brunskill, though he DID attack and expose the gangsters WHO RULE MINNEAPOLIS.

In articles written by myself after Mr. Guilford was shot, I stated and I repeat THAT IF THE POLICE DEPARTMENT OF WHICH BRUNSKILL IS THE HEAD, didn't
know of the gambling den operated by the owners of the 285
Twin City Reporter and their allied thugs THEY WERE THE ONLY ONES IN THE CITY WHO DIDN'T and I repeat that statement. Further, if Chief Brunskill, through his "intelligence bureau" didn't know that 208 11th Avenue South had been operating as a gambling den by these same precious rascals for FOUR YEARS—if he didn't know they were opefating, prior to the attempted assassination of Mr. Guilford, at 818 Hennepin Avenue, then he doesn't know enough to be chief of police and if he DID know and permitted this flagrant violation of the law HE SHOULD BE

286 REMOVED FROM OFFICE. There isn't a neutral corner in which Mr. Brunskill can stand while the count is being made.

He is either opposed to the gangsters and their allies or he is with them and he is welcome to ride either horn he chooses.

The Saturday Press was informed BEFORE THE FIRST ISSUE, that the "City Hall" was receiving twenty-five per cent of the profits from the gambling joint owned and operated by the Twin City Reporter, Moe Barnett and "Red" Clare! We were told that the "weak sister" of the combination
287 was CHIEF OF POLICE BRUNSKILL and that the first "heat" placed under the chief would automatically close the gambling joint AND THE JOINT CLOSED WHEN THE GANGMEN'S GUN BROUGHT H. A. GUILFORD TO DEATH'S DOOR. Wish that one away, Chief.

Bear this in mind, you who read these lines:

The gambling syndicate operating the den at 818 Hennepin Avenue was composed of men who are residents of the city. The gunmen who shot Mr. Guilford down are residents of this city. The conspiracy, the plot to murder him was
288 concocted within the city limits of Minneapolis AND THE GUNMEN AS SOON AS THEY HAD SHOT H. A. GUILFORD FLED ACROSS THE MUNICIPAL BOUNDARY INTO THE CITY—not away from it!

They had been instructed to shoot Guilford INSIDE the city limits and they blundered to the extent of ONE HUNDRED FEET but they didn't know it until Sheriff Earle Brown of Hennepin County arrested them. Is it reasonable to suppose—is it not preposterous to assume—that if these hired killers had not been assured of protection once they were inside the city limits THEY WOULD HAVE FLED

DIRECTLY TO THEIR HOMES AND REPORTED BACK TO THEIR HENNEPIN AVENUE RENDEZVOUS? 289

And from whom were they to secure protection?

Most assuredly not from the County authorities ELSE THEY WOULD HAVE KEPT OUTSIDE THE CITY LIMITS!

From their gangster employers?

Just a moment, please:

When Moe Barnett (known as "Big Moe"), spokesman for and member of, the gambling syndicate, offered to hand the owners of this paper our weekly "envelope" in return for our silence and his offer was spurned, he snarled at Mr. Guilford: 290

"WATCH OUT. PROTECT YOURSELF AT EVERY STEP. GET YOURSELF A MACHINE GUN AND DON'T YOU DARE MENTION MY NAME."

Well, Moses, old scout, here it is:

M-O-S-E B-A-R-N-E-T-T.

Recognize it?

I ask only one favor of you, Moe: If you come, come yourself—don't send one of your tools. I never yet sent a hired man into a place where I was afraid to go myself. 291

You may curdle the thin fluid in the veins of your "weak sisters" and your cheap screw gangsters but that's as far as you get in this series.

It is this type, this Moe Barnett, Ed Morgan, Jack Bevans ilk, that were mentioned in our last two issues—no law-respecting citizens, but blackmailers, gamblers, GANGSTERS, and yet we find Chief of Police Frank Brunskill barring this paper from the news stands and business places of Minneapolis. Did Moe Barnett, gambler, gangster, TELL THE TRUTH when he said that the "City Hall" was the fourth

292 beneficiary of the gambling den then being operated by himself and these others, at 818 Hennepin avenue?

Was he lying when he bluntly stated that Chief Brunskill was the "weak sister" of the combination? If he was, THEN WHY DID BRUNSKILL FORBID THE SALE OF THIS ONE PAPER IN THE TWIN CITIES THAT DARED EXPOSE THE GAMBLING SYNDICATE AND GANGSTERS?

Friends, it begins to look as though old Moe Barnett wasn't a liar even though he was a gangland Kaiser.

293 Upon what grounds did Brunskill issue his orders to stop the sale of this paper on news stands?

It could by no stretch of imagination be classed as "obscene literature!" Not even by the most puritanical.

Under a statute enacted in 1913, the police have power to bar from news stands any publication obscene in nature and tending to corrupt the morals of children or any publication devoted principally or solely to stories of crime, bloodshed or tales of lust.

We respectfully call the Chief's attention to the Twin 294 City Reporter FOR THE LAST EIGHT YEARS, and ask him what steps he has taken since he has been Chief of Police to bar that publication from the news stands during the years he has been at the head of the police department?

Last week, in order to save his face apparently, he ordered the Reporter taken from the stands FOR THE FIRST TIME SINCE HE HAS BEEN CHIEF OF POLICE.

The Saturday Press was offered to the news stands shortly after noon on Saturday last, BUT THE TWIN CITY REPORTER HAD BEEN PROMINENTLY DISPLAYED ON THE STANDS ALL WEEK and at 12:30 p. m. one of the

stands on Nicollet avenue STILL HAD THEM ON DIS- 295
PLAY.

It is remarkable how suddenly some can discover danger to the "public morals" WHEN THEIR FRIENDS ARE UNDER FIRE.

Brunskill seems to have a penchant for suppressing the sales of publications, other than the Twin City Reporter.

About a year ago he ordered "Liberty" magazine barred from the news stands—exactly why no one knew, but it contained an article, evidently, that displeased him and, "bang!" the order went forth to suppress it. That was one time the 296
Chief blundered. "The best chief of police Minneapolis ever had" has made another blunder.

The Saturday Press WILL NOT SUBMIT TO SUPPRESSION even by Chief of Police Frank Brunskill.

The Federal Grand Jury recently returned indictments against approximately one hundred liquor law violators, out of a total of 159 indictments returned. The percentage is normal. One doesn't have to be a chronic wet or an habitual dry to recognize the indisputable fact that almost seventy- 297
five per cent of all indictments returned by grand juries are for violations of the prohibition law. Is it worth the price?

Out of a total of 77 cases tried in one day before Judge Molyneaux of the United States District Court, exactly SIXTY-NINE were for violations of the prohibition law. These figures disclose one of two things (or both):

That the demand for liquor is on the increase or that criminals in other lines are forsaking their calling to dip into the moonshine game, with its certain profits and decreased personal danger. At any rate, our courts from-

municipal to national are overloaded with hooch cases while the bootleggers scuttle about with "cases of hooch."

Doctor (noticing a squalling pickaninny on the floor): "Mandy, that baby is spoiled, isn't he?"

Mandy: "No, sah, Doctor, all little nigger babies smells dat way."

WHY FARMER AND WAGE EARNER CAN NEVER BE AMALGAMATED

The Futility of Farmer-Labor Parties. A Brief Sketch of Their Dissimilarity of Interests. The One, of Necessity, Demanding a Maximum in Return for a Minimum—the Other a Minimum for a Maximum.

(By J. M. Near)

The proposal put forth a few years ago to amalgamate the farm owner and the job owner, otherwise the Farmer-Labor element, into a political organization to be known as the "Farmer-Labor party," has resulted in nothing except soft berths for a few jabberwocks, and bitter disappointment for the two groups.

It is patent to all but the most obtuse and to those who hoped to benefit monetarily by the amalgamation, that the farmer and the city laborer have nothing in common; that such being the case, and it is, there can be neither political amalgamation nor industrial of the two different classes.

The farmer must of necessity, secure the highest possible price for his products, while the city worker must, of the same necessity, purchase the greatest volume possible with

his wage. This condition is an insurmountable obstacle to 301
the political or industrial unity of the two.

The men who fostered and brought into being the Non-partisan League understood this condition, therefore they confined themselves to a purely farmers' organization with, at least at the beginning, a political program only. Later as their power increased, they broadened their plan (the fishing was good and the suckers bit madly) to include co-operative everything—from elevators to banks and from merchandise to bonds. As their program broadened, their organization weakened and their power slipped. It was then 302
that the leaders, casting about for more lucrative fields, made common cause with leaders of organized labor. The idea was magnificent.

It would be necessary only to convince the farmer that his economic interests were identical with those of the city worker and "player" the latter into the belief that only by casting his lot with the farmer could he possibly escape disaster, and the trick was turned. The Farmer-Labor party was brought into being. And then what happened? Why, the mismated forces elected a United States Senator for a full term. They sent another down to Washington for a 303
few months. They were elated. They made a powerful bid for the governorship. They did more than this: They let down the bars to every undesirable element.

They dismembered the Democratic party. They brought temporary chaos into the Republican party and they wrecked their own! It could not be otherwise.

Every labor skate in the state fastened himself onto the new political (?) party. Every "red" between the two oceans hied himself to this new Utopia. Communists packed their conventions and dominated their policies. They were

304 furnished Moscow-inspired "news" through the columns of their party papers. Not only the rank and file but many of their leaders were misled. Then gradually the awakening. Farmers began withdrawing their financial and moral support. The sane portion of organized labor began to question its leadership. It began to ask itself and of its members, "what have we in common with Moscow?" It, too, began withdrawing its support until today the few laborites who are clinging to the Farmer-Labor ship are red barnacles, "borers from within."

305 The Farmer-Labor party doesn't exist in any other state than this. In every state claiming an amalgamation of the two groups it will be found that the organization consists solely and absolutely of COMMUNIST COMMITTEES, held in readiness to pack every "convention" called by the party.

ARE THE FARMERS OF MINNESOTA READY OR WILLING TO TURN COMMUNISTS?

If so, they have only to continue their support of and their allegiance to, the present "Farmer-Labor" party.

But, going back to the "identity of interests" between the farm owner (or tenant as the case may be) and the 306 city worker and what do we find?

The city worker straining every nerve to secure as much as he can with the smallest possible outlay of effort or coin —the farmer straining every nerve and resource at his command to secure the highest possible price for the products of his toil. A clashing of interests older than our civilization.

The one combined to secure for itself the maximum of products upon which it must exist, with a minimum outlay of cash or effort. The other insisting upon a minimum of its products for a maximum price. And we are back to that

age-old problem of selfpreservation.

No one knew better than the men who sired the Farmer-Labor party, the futility of any effort to bring these warring elements into a common camp. 307

The wage-earner struggling to secure shorter hours and a higher wage has nothing in common, has never had anything in common, with the farmer who is forced by season and elements, to toil without thought of time until his crops are marketed.

The very objective that has brought both wage-earner and farmer from vassalage and peasantry—the most for the least—renders ineffectual any and every effort to amalgamate them into a political or economic unity. 308

To better illustrate:

At the present time the several labor organizations engaged in the city's theaters are out on strike, not for higher wages but for a six day week with seven day's pay.

One of the unions recently signed an agreement with the theater owners, but no sooner had another branch of organized theater workers gone out on strike, than the one who had, less than one month ago, signed a working agreement with their employers, went out on strike in "sympathy" with their fellow workers. They had no grievance. They claimed none, yet they are out on strike, placarding the theaters as "unfair to organized labor." 309

What would be the result if men employed on the farms were organized—the milkers in one union; the hay-pitchers in another; the grain shockers in another and the threshers in still another with various affiliated branches of fertilizer spreaders, corn huskers, pig feeders, egg rustlers, and roustabouts and all these employed on an eight-hour per day basis?

310 Like the city worker, these "organized workers" would receive their orders to strike from swivel-chair farmers—men who had served their apprenticeship by sweeping grunts out of a pig iron factory!

Well, the principal results would be that nearly all of our farm owners or renters would be cached in a padded cell or in irons, accused of being insane or charged with half-justifiable assault.

And it is these widely separated classes, men with interests so utterly dissimilar, that the political tricksters would amalgamate and continue in a political party! What total
311 asinin'ty.

One more illustration:

At the present time the Upholsterers' Union is out on strike. It doesn't matter what for, the fact remains that they are out. And to who's benefit? Why, the noisy gentlemen who are drawing down a salary while the workers are subsisting as best they can with no salary and a smaller wage.

Several hundred men are unemployed, children half fed, wives scrawny and rents unpaid, but not their "leaders"!
312 These gents are well provided for. They sit down to no scant fare. They are sleek and well-fed. One of them became a member of that labor union by suffrage. In brief, he was presented with a membership card in order that he might be given a job in an entirely different line of work. He couldn't nail the "upholstering" on a hayrack. He thinks furniture is "overstuffed" by a sausage machine with an overhead drive! Now, brother, if you get chesty, I'll smear your monicker and record all over the state.

I mention these few instances merely to prove to the farmers that any and all attempts to bring the city's wage

worker and the farm worker, whether the latter be owner, 313
tenant or "hired man," into a Farmer-Labor party is futile and can bring nothing but disaster to the farmer.

At the present time a "last stand" attempt is being made to keep the party alive and functioning, but this frantic effort is being made by the Communist element that is being driven out of the camps of bona fide labor. Repudiated and discredited by organized labor—that portion of labor that frankly admits its interests diametrically opposed to those of the agricultural toilers—it now seeks to fasten itself on the farmer.

The Farmer-Labor party is defunct, despite the rancorous 314
statements of these deep red or pale pink "leaders" to the contrary. It has lived its brief day. It has succeeded only in destroying the Democratic party in this state, bringing temporary chaos into the Republican party and disgust and distrust into every corner of the state and into every home.

Unless the farmers of this state return to the political alignments of those days before Townley bewitched them with his hocus-pocus, damphoolishness, they will find themselves enmeshed in the toils of red Moscow—smeared with the muck of Communism, just as surely as day follows night. 315
Regretable though it may be, the world-old struggle between the "I Have's" and the "I Wants"—between the wage-earner and the tiller of the soil—between the descendant of vassal and peasant—must continue. This struggle can not be needed by bringing or attempting to bring, the factions together under one political banner. Each must work out its own economic salvation in its own way but along immutable lines.

The Judge—You are charged with running your car sixty

316 miles an hour, smashing telegraph pole and plate glass window, and injuring six people. What have you to say?

The Offender—Great Scott, Judge, doesn't the $15 I paid for my license entitle me to any privileges at all?

Traffic Cop (pulling out book): "You know better than speeding past a stop signal like that. What's your name?"

Motorist: "Alogsiurs Cyprion Alastiat Cantompolus."

Traffic Cop (putting away book): "Well, don't let me catch you doing it again."

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317 When is a man drunk? A Los Angeles, Calif., policeman gave as his definition: "When he gets so piped that he lays down on the front lawn and hangs to the grass to keep from slipping off the earth." Experience or just suspicion?

Doctor (noticing a squalling pickaninny on the floor): "Mandy, that baby is spoiled, isn't he?"

Mandy: "No, sah, Doctor, all little nigger babies smells dat way."

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318 Mrs. Grebb—And what do your boys work at, Mrs. Grubb?

Mrs. Grubb—One is a cook in a drugstore, and the other is a bartender in a lunch room.

A great many people have lost their desire to appeal the 18th Amendment since they found that it has nothing to do with Prohibition!

One thing about Fourth of July that we all admire—It gives a lot of peanut politicians an opportunity to let the gas out of their system.

Father (to youngster, just put to bed)—Now, what are you crying for? 319

Son—I wanna drink.

Father—So do I, go to sleep.

Statistics as to the increased business of undertakers since the advent of prohibition have not been made public. They would be interesting literature.

If Prohibition lasts another ten years, half the American people will be cross-eyed. Condition brought about by looking askance at every stranger. 320

"You've heard of the Tiber, the famous Roman port, haven't you?"

"No, how much a bottle?"

To the Public:

The police department has issued orders to all news stands that the Saturday Press must not be offered for sale. 321 The police department has the power (not a "right") to issue this order to curbstone dealers but has neither right nor power to forbid its sale by any dealer who owns his own place of business OR PAYS RENT.

If Chief Brunskill wishes to align himself with the blackmailing Twin City Reporter and the gambling syndicate, I can think of no better method nor more direct way than to ban the one paper in the city that dare attack them, from the news stands.

If in no other place in the city, the Saturday Press will

322 be on sale at its own office between the hours of 1:30 and 4 o'clock p. m., and our address is:

240 South Fourth Street, up-stairs and to your right.

—J. M. NEAR.

THE SATURDAY PRESS

A WEEKLY "WHO'S WHO AND WHY"

The Northwest's Snappiest Newspaper

Business Office, 240 S. Fourth Street

Two Dollars per Year in Advance

On Sale on News Stands, Everywhere,

323 Every Friday

OUR MOTTO:

Laugh and the World Laughs With You

Grouch, and You Grouch Alone.

HOWARD A. GUILFORD

J. M. NEAR (The Old Man)

Editors and Owners

A First Class paper, mailable everywhere but not entered as Second Class Matter anywhere.

Dealers and Subscription Agents wanted Liberal Com-

324 missions.

To Readers of This Publication:

Because of Mr. Guilford's physical condition he has not contributed to this issue and it will doubtless be several weeks before he will be able to do so. Therefore all articles UNSIGNED are by myself, so if this issue doesn't quite meet with your approval, charge it against the dirty rat who came so near snuffing out Mr. Guilford's life. I assume all responsibility for unsigned articles in this issue.

—J. M. Near (The Old Man)

A FALSE AND MALICIOUS RUMOR

325

The report has reached me several times that because of my criticism of Senator Thos. D. Schall in the first issue of the Saturday Press, certain irritable and fretful ones are intimating that Schall may have known something of the attempted assassination of Mr. Guilford.

Cut that chatter.

Tom Schall and I are POLITICAL ENEMIES ONLY, and Tom Schall would no more countenance an assault on a political foe than upon a member of his own family.

Politically, I consider Schall the bunc, but he's as tender-hearted as a child.

326

Leave Schall's name out of this shooting, please. He's as innocent of any knowledge of it as a new-born babe.

—J. M. Near.

Now, don't forget that subscription. These are days that not only try one's soul but everyone's patience and purse as well and subscriptions we must have if we are to continue YOUR fight.

THE GUILFORD YOU DIDN'T KNOW

327

I am not given to writing eulogies—they are a bit out of my line, but within the last ten days I have heard a few, a very few, remarks made about my wounded buddy, Howard A. Guilford, that riled my Irish angora. Guilford never wore his heart on his sleeve. The world saw only the rough bark—the finer fibers were buried deep beneath a rough exterior and a cynical sneer.

You, the world, heard only his deep voice roar defiance, not only of his enemies but of convention—of the sham you choose to call "society."

328 I have heard that same voice in more than one hovel home in this city, crooning over the cradle of a sick child in tones as tender as a mother's.

I have seen those powerful hands, clenched more times than one in almost uncontrolable anger, sooth the fevered brow of a vagrant's babe and those eyes you saw blazing with the fire of battle, I have seen suffused with tears at a tale of suffering.

It never mattered to Howard Guilford if the child was of an alien race. He never stopped to question its parentage. He scorned to ask of what nationality, of what creed. To 329 him they were children and "Unto the least" was his religion.

When Guilford ran the Twin City Reporter back in the early "'19's" he gave more to, he gave more for, the poverty stricken of this city than any other one man in it. I know.

Every employe of that paper, during Guilford's ownership, was under orders to report every case of destitution coming under his or her observation. These were "standing orders."

They were never modified. They were not seasonal. There were no orders for fall, others for winter and others for the remaining seasons. There were no racial orders. They 330 were explicit:

"If any of you know of a needy family or hear of one, find out what they need and tell me if I am here and if I'm not, take the money out of the cash drawer and get it. No matter who they are or what they are—if they are in want, take care of them and keep your mouth shut about it outside the office." This was done hundreds and hundreds of times.

If you who sneer or curse at mention of his name, knew him as so many of the city's unnumbered poor know him, have known him for years, you would not doubt or wonder

that no other patient in the history of St. Barnabas hospital has had so many callers from almost every walk of life as he. All day they come and go—those who have spent many of their days in the shadow of the law; those who have drank deeply of life's most bitter dregs—denim and rags and broadcloth and satin—the extremes of our "social strata." Well wishers all, regardless of their station in life. 331

In two humbles churches one night last week, men and women of that particular faith knelt in prayer that he might be healed and regardless of whether we be saint or skeptic, we can not sneer at the sincerity of those who, forgetful for the moment of their own needs, prayed that this man THEY knew, might live. 332

Two men, one's body warped, misshapen by an unkind Nature, the other plainly of the "plebian herd," came softly into his room the other day and knelt to kiss his hand, their eyes swimming with tears. Why?

They knew the other side—they had seen those finer fibers—and they came—they couldn't have told you why, but they came.

So I say to you again that the Guilford YOU have seen in battle, the Guilford the daily papers have so long pictured as being first cousin to a thug, the Guilford the Madam Grundies have portrayed, is NOT the Guilford loved in a thousand humble homes and prayed for in tiny churches—yet he is the same. 333

And when he lay with one hand plucking at the "veil through which he could not see," when death seemed a matter of moments and not of days, the bond that held him was that unseen thread the knife of Fate could not sever—the love and loyalty of those he had befriended in THEIR hour of need.

A MODERN MIRACLE.

334 Doubtless a hundred thousand people in this city are wondering as to Mr. Guilford's chances of recovery and the extent of his injury and to these I address these few words:

"Gil" has a splendid chance to recover though it will be several months before he will be swinging his big form down the streets and the snap will be lacking to a great extent, even then. No man except he be in the finest of physical condition could have lived throughout that first agonizing day and not one man in ten thousand would have lived at all. The wound itself was what is commonly understood as "fa-
335 tal," yet Guilford drove his car almost two blocks, got out of the car unaided and entered, still unaided, the car which took him to the hospital. He was not unconscious at any time and his first words on recovering from the effect of the ether were, "Get me that bullet, I want it for a watch charm."

The bullet entered his left side just at the belt. It ranged slightly downward, plowing its way entirely through the intestines which it perforated TWENTY-SIX times and in one instance, tearing away an entire section of the intestinal
336 tract. Yet he will live—a wonderful tribute to a man who has lived a cleanly life, never forgetting that Nature's laws can not be violated without paying the penalty. "Gil" never surrendered, he has never lost a fight, not even with the Grim Reaper last week when all but himself had given up hope.

Not because he is my buddy—I would pay the same tribute to my most bitter enemy if he deserved it—but "Gil" is the gamest man I ever knew.

Never once has he complained, never once has he suggested quitting. If he has a fear, it is that the clean-up of

the gang will be an accomplished fact before he is physically 337
able to take a hand in it.

"Gil" will recover, rest assured of that, and his recovery will be due largely to his determination to give Minneapolis the first genuine official scrubbing (not a whitewash, however) that it has had in several years. And the gods know it needs it.

A SLAP AT "LIBERTY"

In another column I have mentioned the fact that Chief Brunskill once barred that very excellent magazine "Liberty" 338
from the news stands in this city but neglected to state the cause of Frankie's peeve. It all came about this way:

"Liberty," about a year ago, perhaps less, was making an extensive survey of liquor conditions in the United States. In brief, the publishers of "Liberty" wanted first hand knowledge as to how prohibition wasn't working out. Their investigator visited this city in the course of his migrations and in writing of his visit he jauntily remarked that he had no difficulty in locating liquor in Minneapolis as all he had to do was to ask the first policeman he met where he could 339
get a drink. Thereat, Francis the Great waxed wroth and slapped the verboten order on "Liberty." Perhaps I should add for the benefit of those who might question, that his "No Sale" edicted lasted quick. It may last a few minutes longer with this shrinking journal but off she comes, sooner or later.

If we are living in Russia, let's know it. If we are denizens of darkest Africa, let's shout it to the world and if Minneapolis is still within the boundary lines of the United States, let's pass the word down to the gentleman in the

340 S. W. corner of our City Hall basement. He doesn't seem to grasp that fact.

It's been many years since I have had the exquisite pleasure of a battle with a bonehead police chief over the disbarment of my publications from the streets, but perhaps some of you who are not in your dotage can recall the outcome of that ancient picnic. That other chief is history —a good fellow but he would persist in hewing down more alfalfa than he could take care of.

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341 FOLLOWING A CUSTOM

(Reprint from first issue)

It is always customary, in the launching of a new publication, to announce the policy of the publication, and wishing to conform to the customs and practices of the knights of the fourth estate, we will take a small amount of space and acquaint our readers with the whys and wherefores of The Saturday Press.

The names of the publishers of this journal of ultra intellectual epics are not unknown to readers of the Twin Cities and the Northwest. Unfortunately we are both former
342 editors of a local scandal sheet, a distinction which we regret. We at least have the satisfaction of knowing that no blackmail ever dirtied our hands, although we are well aware that the taint of blackmail has sullied our reputations. We are stating this frankly, as we both have reason to know that this is a fact.

It has been many years since either of us had any connection with the sheet in question, but the stigma of its subsequent operation has smeared us with its stick. The local publication in question passed into the hands of an unscrupulous newspaper man, a man so devoid of moral

courage that he hasn't the nerve to publish his paper him- 343
self—he prefers to lease it out to others to assume the responsibility, while he engineers the numerous blackmail deals that are committed by the firm, and waxes fat from the profits of gambling houses he has been interested in for several years past, said gambling houses being permitted through the social prestige (?) of the Twin City Reporter about the City Hall.

Hundreds of victims have been blackmailed by the publication mentioned, and thousands of people wish to see it washed from the streets of Minneapolis, but none of them 344
dare incur the ill will of the publication, and its subsequent character assassination. There are two citizens who dare, and who propose to exterminate the Twin City Reporter, and they are the publishers of The Saturday Press. That is our local policy.

We are in possession at the present time of considerable information regarding the blackmail operations of this publication, but a great many of the instances concern people whose homes would be wrecked and the purpose for which they paid their money defeated, were their better halves to discover their misfortune. Those instances we will not 345
use. But we ask a favor of our readers. Will you notify this publication by mail of instances where single men, acquaintances of yours, have been blackmailed? Your communication will be kept confidential, and we further assure you that there is no way in which the name of your friend's companion may be exposed to publicity. We will interview these victims, but we assure our readers that we will not publish anything of this nature whatever.

In closing, let us state that we heartily regret ever in years gone past, having penned a line about the amorous

346 misadventures of our fellow men, and we apologize to the public at large for each and every line. We intend to operate this publication for the good of our community, and if we fail in our intention, then before God it will never be said that we operated it in any way to injure the children of the community.

H. A. GUILFORD
J. M. NEAR.

TO THE CLERGY OF MINNEAPOLIS

347 Gentlemen:

I am coming to you with a message. Many of you will scorn to receive it because of the divergence of our beliefs, the charges of agnosticism hurled at me and to which I plead guilty. But, gentlemen, men can be men and still differ in their conception of a divinity.

So, I come to you with my message, not as a medicant but as one man to another.

We, all of us, are not so much concerned with the past as with the present and future.

348 At the present time there exists in this city the most gigantic criminal syndicate in the city's history. It has corrupted youth, defiled childhood, wrecked homes and reputations. It has sent young men staggering through the doors of our prisons, their lives blasted, their hopes shattered, their souls blackened. It has intimidated our law enforcement and police heads until they dare not molest it. It rules today SUPREME in this city.

So powerful has this syndicate become that it establishes its headquarters in the heart of our business section. Its leaders go boldly, brazenly into our police headquarters.

Their names are known—their occupations are known, their reputations are known and in more than one instance, their prison records are known to our police officials and yet nothing is done. 349

I make no charge of bribery against any official, but I charge that when police department heads permit notorious underworld characters, indicted blackmailers and known but unindicted gangsters to pass freely into the private offices of these officials—when behind closed doors the leaders of vice and crime, the scum of the underworld meet on temporarily even terms the men we have selected to enforce our laws, WE HAVE JUST GROUNDS UPON WHICH TO BASE OUR SUSIPICIONS! 350

Numerous courts have held that the extreme secrecy which the taking and receiving of bribe money must be surrounded precludes the possibility of eyewitness testimony; that the intimate relationship existing and the secrecy surrounding visits between underworld characters and officials indicates:

Well, that there's something rotten in other places than tiny Denmark. In two consecutive issues of this paper, Mr. Guilford and myself have called attention to vice conditions in this city, conditions that we KNOW exist, conditions THE POLICE DEPARTMENT KNOWS EXIST, and what has been the result? 351

When it became known that we intended exposing gang rule of this city, we were threatened with death if we persisted. We persisted.

Scarcely was the ink dry on our first issue than the gang made good their threat: Mr. Guilford was shot down in cold blood.

Bear this in mind, gentlemen, we had attacked no

352 LEGITIMATE business; we had simply exposed a GAMBLING SYNDICATE THAT HAS OPERATED OPENLY IN THIS CITY AND WITHOUT MOLESTATION BY YOUR POLICE, FOR FOUR YEARS.

We made no attack whatever on the Minneapolis police force and yet, in our second issue, because I dared denounce the hired assassins, the men who employed them and the craven officials who DARED NOT ARREST THEM, this paper was barred from the news stands of this city BY THE POLICE DEPARTMENT, just as this issue will be.

353 I do not believe the clergy of this city are men who will submit tamely or silently to coercion, intimidation or threat. I believe they are men of courage, broad enough to take a stand if necessity demands, with one who holds that if human lives be debauched, immortal souls can not be saved; with one who, while differing honestly in his opinions with those of your creeds, dares demand that commercialized vice and gambling shall CEASE in this city.

Mr. Guilford may have given his life in this fight; I am ready to check out if necessary, if it must be, in order to FINISH THE FIGHT WE HAVE BEGUN.

354 We offer no apologies for our past. We ask only that we be given a chance to prove our present, let our futures take care of themselves.

We must have support and we ask you clergymen, not as members of any church but as MEN, will you help us RID MINNEAPOLIS OF GANG RULE AND COMMERCIALIZED VICE AND GAMBLING?

The only unshot editor on the staff.

—J. M. Near (The Old Man)

FIGHT OR SURRENDER—
SUBSCRIBE OR SUBMIT 355

I don't know how you folks out there feel about this subscription business but up on that hospital cot in St. Barnabas, a wounded MAN is asking me every day, "How are the subs coming in?" and I lie like a Spartan. Not that I'm too good to lie but I hate to lie to a wounded buddy—a man who threw his body BETWEEN YOU AND ORGANIZED VICE and did it with a smile.

Of course, he's going to read these lines later on in the week and he'll know that I've lied to him, lied for his good and to keep him from knowing how cheap you really were 356
and I guess he'll understand.

Now, listen, friends:

Neither Mr. Guilford nor myself have used one cent of the money you have sent in or are sending in, for our own selves. Every cent has gone into this paper. WE AREN'T IN THIS FOR MONEY.

Had we been, WE COULD HAVE TAKEN THE GAMBLERS' "ENVELOPE" WHEN IT WAS OFFERED AND BEEN SITTING "ON TOP OF THE WORLD" RIGHT NOW. 357

I'm not going to plead with you to send in your own and your friends' subscriptions—I'm long past the "pleading age." I'm going to talk frankly and plainly to you:

This is your fight. Aside from ridding the state of that damnable rag, the Twin City Reporter and its blackmailing gang, thereby forever preventing the use of either of our names in blackmailing plots, WE HAVE NO INTEREST WHATEVER IN THIS FIGHT—no personal interest. But, we are CLEANING THE SLATE—for you. This is YOUR fight and you're going to finance it OR THE TWIN CITY

358 REPORTER GANG WILL CONTINUE TO RULE YOUR CITY. Now, take your choice:

Get back of this paper with substantial support or surrender to the gambling syndicate that employs gunmen, debauches youth and destroys reputations—if not your own, then of your relatives or friends.

Send in that subscription and don't be afraid of getting cramps in your liver if you make out the check for twenty instead of two dollars. We can use every dime.

—The Old Man

359 Dangerous words: "Stranger, have a drink with me?"

REFORM IN TWIN CITIES

Two enthusiastic young men, Howard Guilford and J. M. Near, decided that Minneapolis and St. Paul not only needed another newspaper, but reform.

Considering that the Twin Cities have seen a dozen people killed, two of them women, in connection with bootlegging and gang wars during the last three months, Guilford and Near probably were right.

360 At all events, they launched the Saturday Press with the idea of exposing conditions and forcing a clean-up.

In the first issue of the Press which appeared Sept. 24, Near wrote an editorial in which he said: "Word has been passed to both Mr. Guilford and myself within the last week that if we persist in exposing conditions as they are in this city we will be 'bumped off.' The open season on editorial writers ended with the assassination of Editor Don Mellett, of Canton, Ohio, by imported gunmen. Make no mistake about this. We are going on through, and if anything happens to either of us, the stage is set so that within twenty-

four hours after the occurrence old Sir John Law will begin stuffing Stillwater penitentiary full of centain gentlemen."

Monday morning Guilford was shot while riding with his sister.

The fact that he will recover does not lessen the rawness or effrontery of the offense.

The underworld of Minneapolis simply undertook to suppress the truth by violence, just as the underworld of Canton did when Don R. Mellett was murdered.

It is common to suppose that congestion, bad environment, organized vice and bootlegging are entirely responsible for this insolent attitude toward the law.

But there is more to the gang complex than that.

If such men as Mayor Duvall of Indianapolis can mock the law, and if large numbers of people only see a little amusement in their triumphs, why can't the yegg, the narcotic peddler and the bum get away with it?

Rotten politics and a public sentiment which enjoys it have had much to do with the rise and arrogance of gangs in our great cities.

—(M. E. Tracy in Indianapolis Times.)

Modern Girl (telephoning home at 3 a. m.): "Don't worry about me, mother, I'm in jail."

Mable—"Do you know anything about stews?"

Nellie—"I ought to, I married one."

AS YOU SOW, SO SHALL YOU REAP

Every intelligent man and woman in the city was horrified to read, just a few days ago, of the brutal murder of a young lady who was attending school in this city. She had

364 been lured to a shed and there brutally murdered by a fiend in human form. The crime was revolting in its brutality. The daily press are savagely demanding that the death penalty—capital punishment—be restored in this state as though a murder committed by a commonwealth were less revolting than one committed by an individual!

Without going into a harangue as to the justice or injustice of capital punishment, I beg to call the attention of these irate journalists and all intelligent citizens to one thing:

365 Crimes are not lessened by the severity of punishment meted out, but by the CERTAINTY of apprehension AND punishment.

Our laws as they are enforced, not ADMINISTERED, are a joke. We have law enforcement bodies and no law enforcement. We have officials sworn to uphold the law and they are loyal to their oath—they uphold it just enough to keep their own feet from becoming entangled in it. They spend twenty-two hours per day searching for perpetrators of a petty offense and the other two making out reports of their prowess.

366 Let's be honest with each other for a moment and answer these few simple questions (if they can be answered at all) to our own satisfaction:

How many killings have taken place in this city in the last four years and how many killers have been punished?

How many first degree assaults have taken place in the same period of time, and how many assaulters have been apprehended by our police?

How many burglaries have taken place in this city during those same four years and how many burglars have been sent to Stillwater?

In brief, how many so-called "major crimes" have been committed in Minneapolis in the last four years (let's lift the lid and be frank about this) under Chief Brunskill's administration and how many "major criminals" have been caught by the police and sent to Stillwater? HOW MANY HAVE ESCAPED ANY PUNISHMENT OR EVEN ARREST? 367

Our criminal class increases at exactly the same ratio as our law enforcement decreases. In other words, our subnormal or inherently defectives gain courage to commit crimes only when they see the law scorned and violated by others of their ilk and their more intelligent brothers. 368

When the mediocre criminal day after day escapes the law's toils, he becomes boastful. As he escapes arrest and punishment for one crime he grows bolder and essays a higher "role." His companions or acquaintances view his "success" with astonishment, then with envy. What he can do, they can do—and they do.

They see men sent to the "works" for petty violations of a still more petty law and they see men escape arrest for violations of laws that are not petty. They have the answer to their problem worked out for them by our law enforcement bodies. 369

Take conditions as they exist in this city:

We have a gambling syndicate so powerful that our police department dare not attack it; instead of arresting the men it KNOWS compose the gambling syndicate, it undertakes to suppress the only publication in the city that dares expose the syndicate! And what is the result?

Your embryonic criminal turns gunman. He finds it less dangerous than stealing auto tires or bronze bushings from some factory. He has had HIS problem solved by the very

370 men you have employed to enforce your laws.

The instinctive murderer, the brute, sees gunmen employed to commit murder, assault business men, destroy their property and their business, roaming the streets at will or if arrested, invariably released on a nominal bail with their trial so distant in the future that no man dare prophesy when it will take place—if ever.

And this young girl who was so foully murdered would doubtless be alive today HAD THE LAWS OF MINNEAPOLIS BEEN ENFORCED AGAINST GANGSTERS, GAMBLERS AND GUNMEN.

371 Had the gambling joints been raided instead of being PROTECTED—had known haunts of the underworld been cleaned out AS THEY SHOULD HAVE BEEN CLEANED OUT, the inspiration that fired the heart of Miss Osten's brutal murder would have been lacking.

These gambling dens are the incubators in which your criminals are hatched! Just remember that. And as long as you citizens tolerate these criminal incubators, just that long you will have your present host of "unsolved crimes" and unapprehended criminals.

372 It isn't the savagery with which men are punished (when caught) that acts as a preventative to crime—it is the sureness and swiftness with which JUSTICE IS METED OUT that sends the thought wave roaring through the brain of the would-be criminal, "Stop!" "Don't!" And he won't, for the primitive instinct of self preservation is paramount to all others in the minds of men, criminal or cardinal, murderer or monk.

Boil your criminals in oil and you'd still have criminals because the percentage of arrests is pitifully small and the percentage of convictions more infinitesimal. Have an effi-

cient man at the head of your police department—a man courageous enough to say to the criminal class, "This far you go and no farther. Obey the law or take the law's punishment regardless of 'drag'." But this isn't being done in this city. Instead of the gangsters being told to "reform or take the consequences" we see them every day walking boldly into police headquarters, indicted blackmailers, syndicate gamblers, thugs. 373

And this is what you taxpayers are supporting? And you expect your lives and property protected by men who greet every gangster by his first name and who impede by every petty artifice and dirty trick, the attempt of the one publication in the city that dares to defy gangland? Is this what you are keeping such men on YOUR payroll for? Would you tolerate half as much from your private employe? 374

I'll tell the cockeyed world you wouldn't! Then why tolerate it now?

Put a man at the head of your police department who will enforce the law fearlessly, a man who won't try to "pass the buck" when the trail gets hot; a man who, instead of trying to protect gangland BY SUPPRESSING THE PUBLICATION THAT SEEKS TO (DOES AND WILL) EXPOSE IT WILL PUT OUT HIS HAND LIKE A MAN AND SAY: 375

"Boys, I'm with you. GANG RULE OF OUR CITY SHALL END."

Make arrest swift and certain for every violator of our law and you will see gangland disappear like a mist before the morning sun. And when gangland has vanished, you will find that the percentage of "unsolved" crimes has diminished wonderfully; you will find that the percentage of brutal murders such as that of Miss Osten will have almost

376 vanished. Why? Because the example of LAW EVASION will have been largely eliminated.

Don't let the daily press mislead you by their frenzied cries for capital punishment. They KNOW that the severity of punishment is no preventative of crime. At this particular time they are anxious to have your mind occupied by other matters THAN RIDDING YOUR HOME CITY OF ITS GANG RULE. Don't let them do it, friends. This is your city, your home. DEMAND THAT IT BE PROTECTED, MADE SAFE, BY RIDDING IT OF COMMERCIALIZED GAMBLING AND ITS BLACKMAILING
377 GANG.

It's your field, and "as ye sow, so shall ye reap." The harvest is just what you make it—wheat or thistles—happiness or woe.

What shall YOUR harvest be?

EXHIBIT 4.

THE SATURDAY PRESS

Vol. 1, No. 4. Minneapolis, Minn., Oct. 15, 1927. Price 5 Cents

A DIRECT CHALLENGE TO POLICE CHIEF
378 BRUNSKILL

The Chief, in Banning This Paper from News Stands, Definitely Aligns Himself With Gangland, Violates the Law He Is Sworn to Uphold, When He Tries to Suppress This Publication. The Only Paper in the City That Dares Expose the Gang's Deadly Grip on Minneapolis. A Plain Statement of Facts and a Warning of Legal Action.

Possibly there are moments when "a soft answer turneth away wrath" but as against such short periods there are long

hours when the English language becomes woefully deficient 379
in expressive words, and I find that deficiency painfully evident right now.

On September 24th, the first issue of the Saturday Press made its appearance. It launched no attack against the police department nor against Chief of Police Frank Brunskill. Its pages prove the truth of this statement.

We (Mr. Guilford and myself) attacked a gambling syndicate that has operated brazenly in this city for more than four years. We attacked that blackmailing rag, the Twin City Reporter and the men who own and publish it. We 380
minced no words. We know our oolong!

When it had become a matter of common knowledge that we were to expose these, we were offered a weekly "envelope" if we would "lay off" and when we spurned this bribe we were cooly informed that we would be given a "receipt" (killed) if we persisted. But I am not going to rehash that story. I'm going to rip the seams and see what is inside the rotten garment.

We made no attempt to place that first issue on the news stands FOR WE HAD BEEN TOLD BY THE GAMBLING SYNDICATE THAT CHIEF OF POLICE BRUNSKILL 381
WAS THE "WEAK SISTER" OF THE SYNDICATE. Think of it—the Chief of Police on whom every citizen must rely for protection of life and property, a member, by the gang's admission, OF THE GAMBLING SYNDICATE! Do you wonder that we made no attempt to place the Saturday Press on the news stands of Minneapolis where they would be at the mercy of an alleged gang member?

Moe Barnett, "Big Moe," acknowledged gunman, gang leader, the man who has boasted that he intended recruiting an army of gunmen that would rival Chicago's machine-gun

382 corps, is the man who declared that Chief Brunskill was the "weak sister" of the gambling syndicate—not "Dame Rumor" but Mose Barnett.

The Saturday Press was first published on September 24 or rather dated as of that date and actually off the press on the 22nd. On Monday, September 26th, Mr. Guilford was shot down by gunmen as he drove from his home in Robbinsdale to the office in Minneapolis. Mose Barnett had threatened Guilford with a "receipt" less than one week BEFORE IT WAS DELIVERED! On Tuesday, September 383 27, police officers visited the downtown news stands and issued orders to the newsboys that they would not be permitted to sell the Saturday Press—that they must withdraw it from their stands, and this BEFORE A SINGLE COPY HAD BEEN PLACED ON THE STANDS TO MY KNOWLEDGE.

Bear in mind, please, that this first issue contained no criticism of Frank Brunskill, Chief of Police, nor his department. It simply called the public's attention to the activities of the gambling syndicate at that time boldly operating at 818 Hennepin avenue AND the blackmailing methods of 384 the Twin City Reporter, owned and published by Ed Morgan and J. D. Bevans. All during the years Brunskill has been chief of police, the Twin City Reporter has been sold on news stands without the slightest interference by the chief. During at least four years of his administration, J. D. Bevans and Ed Morgan, owners of the Twin City Reporter, have been, together with "Red" Glare, heavy "stockholders" in the gambling joint operated at 208 11th Avenue south, and yet Mr. Brunskill never molested that joint!

For some time prior to the removal of the syndicate's gambling den from 208 11th Avenue to 818 Hennepin, Mose

Barnett had a half-monopoly on the baseball pool and it is rather remarkable that while other men who operated small pools were regularly raided and arrested "Big Moe" was never humiliated by so much as a "pinch." 385

When the Reporter bunch moved closer to the financial center and opened up at 818 Hennepin Avenue, "Big Moe" declared himself in on the game and from that time on was prominently identified with the "gang," and again I repeat that it was Mose Barnett who threatened Mr. Guilford—it was Mose Barnett who told Mr. Guilford that the "city hall" was cut in on the profits and that Chief of Police Brunskill was the invalid sister of the combination! However: 386

With the exception of some two thousand copies that we mailed to what we thought and still believe to be, representative citizens, to business firms, to clergymen, to banks, the PUBLIC was unable to learn of our expose of conditions. Our—YOUR—Chief of Police rushed to the defense, not of the taxpayers but of COMMERCIALIZED VICE, OF BLACKMAILERS AND GAMBLERS AND GUNMEN! His first thought was of these vermin, not of YOU or your boys and girls. 387

He didn't want you to know, to learn, that commercialized vice existed in this city. He didn't want you to know that a gambling syndicate at whose tables young men were nightly fleeced of their money and honor, was operating within SEVEN BLOCKS OF POLICE HEADQUARTERS and so, my friends, YOUR Chief of Police issued orders to his subordinates that the Saturday Press must be suppressed IF POSSIBLE—the Saturday Press, the one paper in this great city that DARED expose commercialized vice, brazen blackmail and protected gambling—and they obeyed orders.

388 The second issue went to press and made its appearance about noon on Saturday, October 1st, and before an hour had passed orders had again been issued to news stands that it could not be sold and that any stand persisting in handling it would be ordered off the street.

If any of you who read these lines did not see a copy of that issue, you may have one by calling at our office or if you can't call, one will be mailed you. We want you to know that for the second time we attacked the gangsters, the gambling syndicate and the blackmailers and for the second time CHIEF OF POLICE FRANK BRUNSKILL RU[illegible]ED
389 TO THE DEFENSE OF GANGLAND.

In order to save his face, Brunskill issued orders that the Twin City Reporter AND the Saturday Press be barred from the news stands—the first time during his reign as chief that he had interfered with the Twin City Reporter. He thought that by including the Reporter in his orders that he could escape criticism, but once again Brunskill displayed an astounding ignorance.

Number 3 issue made its appearance and I frankly admit that I made no effort to rubber-tip my barbs. I am under
390 no obligation whatever to Frank Brunskill, Chief of Police. This publication was launched for the express purpose and with the unalterable intention of ridding Minneapolis of gunman rule and blackmail AND IF FRANK BRUNSKILL WISHES TO DEFEND THOSE "INDUSTRIES" HE IS WELCOME TO DO SO—he has done so.

On Sunday afternoon, October 2nd, I delivered at the request of the owner of a drug store in this city, a bundle of the October 1st issue. This man had no curb-stand but carried a complete line of magazines, daily papers and periodicals INSIDE HIS STORE.

When I explained that I had come in person to make the delivery he said to me: "Mr. Near, I am sorry but, — —, the policeman on this beat, told me less than an hour ago that he had received orders from headquarters to notify me that I could not handle the Saturday Press and that if I did so, I would be taken down to headquarters." 391

Now, I am omitting the name of that particular policeman at this time. He was simply obeying orders from his chief, but:

The Saturday Press is all through playing choo-choo with Frank Brunskill. The next officer who interferes with the sale of this paper is going to find himself the defendant in a damage action and his salary garnisheed, and that's final. 392

This publication is not obscene, it is not salacious, it is not unmailable and the next time Frank Brunskill issues an order to bar this paper from the news stands and his officers enforce that order, there will be a shortage of paychecks among the police fraternity. The Chief isn't playing tiddlywinks with a couple of boys this time. We have stood for his czaristic tactics for the last time. This paper goes on sale on the Minneapolis news stands OR EVERY PAPER IN THE CITY GOES OFF. Now, sweat that one out. 393

Chief of Police Brunskill is employed by the taxpayers of Minneapolis TO ENFORCE THE LAW. He isn't employed to protect gamblers, gangsters and blackmailers. IF HE WANTS TO WORK FOR THEM, LET HIM RESIGN HIS POLICE JOB AND GO OVER TO HIS NEW MASTERS!

And to you men who own your own places of business, the Saturday Press gives you this information:

The Chief of Police has no authority to issue an order that violates a law and when he sends an officer into your place of business to notify you that you cannot handle this publi-

394 cation without endangering your liberty, he is violating a law—the officer who delivers the Chief's order is violating a law and if you will take that officer's number and report him to this office we will at once file suit for damages against him and garnishee his pay. WE'RE GOING TO HAVE A SQUARE DEAL, MR. BRUNSKILL, OR WE'RE GOING TO KNOW THE REASON WHY.

We have already been put to several hundred dollars expense by this ban placed upon our publication by the Chief and we are tired of it. We have a legal and moral RIGHT to sell our publication on the streets of Minneapolis AND
395 WE ARE GOING TO HAVE THOSE RIGHTS RESPECTED FROM THIS DAY ON.

We gave Chief Brunskill every opportunity to prove himself innocent of any connection with the underworld, with the gambling syndicate, with gunmen and with the Twin City Reporter gang and he has failed to make good.

We sincerely regret this. It is no pleasant task to criticize or chastise a public official. We would have much preferred to work WITH Chief Brunskill, rather than fight him, but the choice was his; he took up the cudgels for the undesirable
396 element, undeniably, and by his act in attempting the suppression of this paper, championed the cause of the gunmen, gangsters and the Twin City Reporter blackmailers.

We launched our attack against these rascals—not against Frank Brunskill, yet we find that gentleman standing shoulder to shoulder with the foulest gang of killers and scum that ever disgraced this or any other city—doing everything in his power to crush us and nothing whatever to bring the gunmen and gangsters to justice.

Whatever else this unfortunate condition discloses, it makes plain the FACT that Minneapolis' chief of police pre-

fers gang rule to rule of law and chaos rather than order. 397

But, this "point of contact" between the gunmen, the blackmailers, the commercialized gamblers and the police department in this city is going to be broken if it takes the United States Government to do it.

This is one time that the gang and its killers are up against the real thing.

Guilford is fighting for his life on a cot in St. Barnabas hospital—my own life has been threatened, but we have never weakened AND WE ARE NOT FOR SALE.

Now, as to the curb-news stands: 398

They are there through suffrage only. In other words, they have no legal right to be there but are permitted through the courtesy of the PUBLIC—not the Chief of Police.

They are actually an obstruction to pedestrian and vehicle traffic and any taxpayer can take legal action to have them removed. If the police find them displaying or offering for sale any obscene, vile or profane publication it can, in the interests of "public morals," order the offending publication removed from sale or the proprietor arrested.

The Saturday Press cannot be included in these classifications. It is not obscene, it is not profane, it is not vile, it 399 incites no riot, it defies no law, IT DEMANDS THAT LAWS BE ENFORCED—that the Chief of Police suppress vice and crime in this city, rather than protect it. And for daring to do that, it is banned from these curb-stands that exist only through suffrage.

Now, friends, neither Mr. Guilford nor myself are posing as "bad men"; we have no desire to work a hardship on any legitimate business; we are sincere in our determination to rid Minneapolis of its gunmen and gangsters AND WE ARE GOING TO DO IT. If in doing that, we are compelled to put

your police department in the same sack with the gangsters, don't blame us. The fault is not ours. We ask only that Chief of Police Brunskill obey the law HIMSELF and compel the habitual law-violators to obey it also.

If for demanding obedience to law we are to be persecuted and impoverished, so be it, BUT THE FIGHT GOES ON.

RESPECTFULLY SUBMITTED

There seems to be an impression among gentlemen of peculiar bent that the suppression of our street sales has rendered abortive our attempt to cleanse this city of gang rule. These gents are intellectual single-trackers; twenty-two caliber saps rattling around in a four hundred thousand city. Lest they become too hilarious, I beg to call their attention to the following letter, the original of which was mailed to the Hennepin County Grand Jury on Wednesday of this week.

Read it carefully, "me brave buckos" and see if you can discern a flutter of a white flag. We've just begun to fight!

Minneapolis, Minnesota,
October 12, 1927.

To the Hennepin County Grand Jury—
Gentlemen:

Permit me to call the attention of your honorable body to the October 1st and October 8th issue of the Saturday Press in which issues both Mr. Howard A. Guilford and myself have exposed conditions that actually exist in this city or did at the time (and long prior to) of our expose.

I especially wish to call your attention to the article, written by myself, in the October 8th issue under the caption of:

"A Few of the Unsolved Minneapolis Mysteries."

In that article I gave the name of one of the numerous victims of Minneapolis gangsters, Mr. Samuel Shapiro of 2615 East Franklin Avenue, and I am positive that were Mr. Shapiro given a chance to testify before your body he would be more than glad to give you sufficient evidence upon which to base an indictment of the acknowledged gang leader, Mose Barnett—the man who threatened Mr. Shapiro just a comparatively few days before the assault upon his person and property was made by four gunmen. 403

The article as published, stands unchallenged by either Mose Barnett or any other gangster in the city. I have not been sued for libel nor has any such action been intimated, therefore it stands that I published the truth. 404

Gentlemen, gang rule of this city can end only with your approval and by your action. Mose Barnett, gangster, who boasts that he has shot one man (Roy Rogers) and escaped even arrest for that act, today walks the streets of the city a free man, a menace to lives and property.

I trust you will not consider me too presumptuous if I again suggest that you subpoena Mr. Samuel Shapiro and thus give that gentleman the opportunity, heretofore denied him, of telling his own story of HIS experience with Mose Barnett and the latter's hired thugs. 405

I am, sirs,

Very truly yours,

J. M. NEAR,
Editor, The Saturday Press
240 S. 4th Street
Minneapolis, Minn.

And further, I might add for the edification of the "unpinched gang" that I have mailed, each week, two copies of this paper to each member of the Grand Jury. I shall con-

406 tinue this practice UNTIL YOU FEATHERLESS BUZZARDS ARE PARKED WHERE YOU BELONG—in the penitentiary. You are through—all through. Don't forget that.

"They say kissing is most dangerous early in the morning."

"A fellow ought to know better than to stay so long anyhow."

407

SURE, WE'LL SELL OUT!

"How much are Guilford and Near willing to settle for?" is a question agitating a lot of minds these placid days and ever willing to bring peace, though not at any price, I herewith submit our price and terms:

The end of the Twin City Reporter's blackmailing career—not a temporary suspension but the END. That or prompt prosecution of the men who operate it AND BLACKMAIL WITH IT.

408 The prosecution (and end of petting) of Moe Barnett, known gangster, gambler and "bad man."

The permanent removal of Brunskill's censorship of publications that dare criticize his department and his bungling administration of police affairs. Either this or the removal of the Chief himself and even then, unless he ceases his "glad hand" system of greeting known gangsters while honest men click their heels impatiently outside his door.

A general clean-up of known gangsters and their enforced hegira or a "trick" at the twine machine in Stillwater penitentiary.

Now, you who think our price is too high, juggle our terms

or suit yourselves but don't forget WE ARE DEMANDING NO MORE THAN WE WILL GET. 409

It may take us several months and we may be shot-up again BUT OUR PRICE STANDS. Take it or leave it.

Rid Minneapolis of its gambling syndicates, its gunmen, its army of Apaches under the leadership of Moe Barnett; punish that rat for his known crimes; "mop-up" on the blackmailing gang who own and publish the Twin City Reporter; give the young boys and girls of this city a chance to escape contamination by these lepers and Guilford and Near will "lay down," but not before. WE are dictating terms, not the spawn who have held this city at bay for eight years. WE, not they, are setting the price of our silence and, friends, we are going to get our price OR THE FIGHT GOES ON. 410

So Mose Barnett has "sold his place of business," eh? The typical "sale"—from "Me to I." Thought so.

BUSINESS MEN BUNCED FOR YEARS

Charles Davis, Head of the Law-Enforcement League, a Rimless Cipher as a Law-Enforcer. Swoops Down on Punchboards Like a Hungry Hawk; Heads Spectacular Raids on Dinky Poker Games; Ballyhoos Through the Daily Press and—Draws His Salary. 411

It is almost a pity to shake the confidence of a man's employers in that individual's loyalty but there are times when the essence of pity must not be allowed to enter and this is one of those rare times.

For several years Charles Davis has been employed in

412 some well-paying capacity or position as the "head" of a law-enforcement body. Away back in those hectic days of the World War, Chawles tripped blithely about as the head of the "Committee of 13." His patriotism couldn't be measured by geometrical yardstick or other contrivance. According to Chawles, he was the quintessence of patriotism and he got away with it—and his salary.

The gentlemen who had fallen for his peculiar line of bunc never questioned any of his acts. They placed implicit confidence in Brer. Davis. Then the war ended as even wars
413 have a habit of doing, and Chawles the Bunco Buster felt his salary slipping. He conceived the idea of a "Law-Enforcement League," with himself at the head. His plan was brilliant and his salary assured, and that last ingredient was what intensely interested Chawles.

The anti-bellum days were filled with woe and worse. Officialdom was staggering under an unexpected load. Conditions were chaotic. Davis had no difficulty in convincing the officials upon whose shoulders fell the burden of law enforcement, that his league was necessary if the country was to escape anarchy. They were glad to share their bur-
414 den with any organization. And Charles stepped into the scrimmage with smiling face and a fat salary.

For years he has fought savagely against penny-ante poker games, punch boards, unsyndicated baseball pools and alley crap games, but when it came to interfering with commercialized gambling, Herr Charles was a minus quantity.

If, as happened some few weeks ago, a poker game that interfered with the "big game," the protected game of the gang, was located, Charles gave the raid his personal attention and the daily papers all the "copy" they could stuff into eighteen pages of pearl-face.

If a chip fell to the floor during Charles' daring raid, 415
no one except that Knight of the Plumed Woo-ha's dared pick it up. Charles got them all—except the big game. He never could find that!

When it ran so openly down at 208 11th Avenue south that even the ruralites from the tall sticks couldn't escape it; when it was permitted to run at that address so tough birds from other cities would congregate there where they would be easy for our police to pick up IN CASE they were wanted, Charles never knew the game was running.

He was a very dense youth! And yet he was and has 416
been for several years, cashing salary checks to the total of six thousand dollars per year.

Why, when Chawles "didn't know" the 11th Avenue game was wide open, two unsophisticated bank cashiers were fretting because they had to wait until after banking hours in order to play their employer's currency over the green cloth! These young men would start stuffing bales of our "medium of exchange" in their ulster pockets as soon as the 1 p. m. whistle blew and before the janitor had the pennies swept off their cage floors, they would be down at the gambling joint Don Charles "couldn't find," losing their firm's money 417
faster than a farmer can milk a cow.

Then there was the matter of baseball pools: Charles found them all—except the big one operated by "Big Moe" Barnett, gangster and gunman. Charles never COULD find anything that "Big" Moe, Bevans or Ed Morgan were interested in. Funny thing, but he simply couldn't. If you doubt my word, look at the "record" Davis has compiled with the enthusiastic assistance of the daily papers and a former beerwagon driver.

And again we come to the punch-board crisis.

418 It was terrible! Charles couldn't stand to have it around so one day he swooped down on the business places where the offensive boards were harbored and confiscated them all. It was a brilliant attack—duly featured, with elaborate eulogies of Chawles, in all our daily papers. Once more had Davis proved his worth to his employers! It was almost time for the monthly check and Longboy took no chances.

Were I a profane man I would say that it is a dam-shame that this runt has been able to bamboozle so many of the brightest men in our city, but as I am not profane except
419 upon nonrare occasions, I simply submit that:

If the gentlemen who have been paying Charles Davis' salary all these years will check back on that buckoo's record, they will find as every one except themselves KNOWS, that he has done nothing—except cash his check.

Davis KNEW 251 Hennepin Avenue was running for his attention was called to it and Mr. Guilford offered to pilot Davis' man into that place. But Charles was a canny cuss. He didn't want to be shown and for the next few days he was busy running down a gum machine proprietor.

420 No, no, Charlie, you won't start any slander or libel suit. If you ever do, you'll be the "sickest sister in the choir," and that means some sick right now, if you know what I mean.

When a few weeks ago the Beaufort hotel was raided and a score of fellows who were students of the "great American game" were arrested, Charles again broke through the front pages of the daily press and press-agented his prowess to an astonished world—but Charles, if you took notice, didn't raid 818 Hennepin Avenue! Not a chance in the world!

That joint was "protected." It was also the hangout of

the Barnett-Morgan-Bevans gang—tough birds all of them and Charles doesn't like tough birds, even of the featherless variety. 421

They make him "seek, veri seek," these hombres who tote gats and sneer at law. He prefers "safety first," last and all the time—that and his six thousand per year.

In brief, you gentlemen who have been contributing to Charles Davis' salary have been bunced cleverly—if not cleverly, then completely. He has done less for more money than any other employe in the city. He, as you can prove by his record, has neither uncovered, prosecuted nor caused the prosecution of any major "vice" in this city. He can find a punch-board, I admit. He can locate a friendly poker game, it is true. He can smell a petty baseball pool five blocks against the wind but he can't locate a gambling joint that is protected and RUN BY THE GAMBLING SYNDICATE. He's the bunc and if you gentlemen are not saps, you will check him up. If you do, you will ease him out of your employ. Better spend your money buying snow-shoes for Hottentots than squander it on Charles Davis—the man who dare not deliver anything larger than a petty game of chance. 422 423

"Part of a loaf is better than none," Chief Brunskill is quoted in one of the daily papers as saying anent the appointment of 10 additional policemen, "although we could easily use one hundred. I am studying the situation so as to place the new men to the best advantage."

If that wouldn't contract a gosling's giblets!

Studying the situation! What situation? The present one? What Brunskill needs to study is a lot—let's say from the kindergarten up.

"To the best advantage" is a scream. To who's "best

424 advantage?" It would be delightful to know. But as the public will never know, I suggest that Brunskill broadcast the ten new men so as not to interfere with "Big Moe." They might cause the ex-java jerker some embarrassment.

The Brunskill way—but it don't "weigh" much.

TERRORISM OR LAW?

Cautiously, so as not to frighten the timid, our daily papers inform us that the strike of theatrical employes has
425 necessitated the calling out of every available police officer to guard the theaters.

Several amusement houses have been bombed, others have had their audiences sprayed with vile fluids and by whom? The ruffian element that has wormed its way into the labor movement—the fanatical, half-baked element—the lawless minority that ever seeks to rule by terror where it can never hope to rule by number.

And this terroristic element has reason to feel its safety in the present strike. It has seen gunmen boldly stalk the
426 streets of this city in search of their prey. It has seen gunmen shoot down men in cold blood and go unscathed. It has seen thugs and gangsters roam the city, unmolested, and it has seen their known haunts go unraided by the police. It has seen more than that: It has seen known gangsters walk brazenly into the office of our Chief of Police and jauntily walk out again—smiling.

It has seen (or read the accounts of) gangsters forcibly entering a business house and destroying an entire stock of goods with powerful acids, club the protesting proprietor into submission, climb in their car and drive away—to safety.

It has seen the police department used to suppress the 427
only publication in the city that dared call the public's attention to these crimes of the underworld. And, seeing these things, the ruffian element in the ranks of labor has grown bold. It feels that our police department is a thing to be laughed at but not feared—and I am inclined to think they have the right view.

Put an EFFICIENT man at the head of our police department—a man who dared call gangland to a halt—a man who had the moral, if not physical, courage to take a stand with men who HAD the guts to defy death and gangsters and see how suddenly the bombing of theaters in this city 428
would stop.

A man who will plant a bomb in a public building, a thing in human form who will spray women and children with vile compounds, is on an exact par with a soulless microbe who will shoot down a fellow man in cold blood—a professional killer. There isn't any difference except in the QUANTITY of their "Dutch courage." Both are cowards at heart and rats in principle. And both understand but one word: FEAR—of their own scurvy hides.

Put a man in charge of the Minneapolis force, WITH 429
THE PERSONNEL EXACTLY AS IT IS—no changes in the rank and file—and watch the "tough eggs" who bomb theaters, spray acid on clothing stocks and shoot editors who have the courage to declare for a clean city and you will have an end to "tough eggs" p. d. q.

Take your choice, you men who have it in your combined power to say which it shall be—Terrorism or Law.

If you want terrorism, continue as you have for the last few years, your apathy and your indifference. If you want law, if you want order, if you want freedom from gangsters who shoot and gangsters who bomb without respect to gen-

430 der, if you want this to be a city free of gang rule and terrorism, GET BACK OF THIS PAPER WITH YOUR MORAL, ACTIVE AND FINANCIAL SUPPORT.

ABATING BELLBOYS.

Not long ago abatement proceedings were instituted against the Dyckman hotel in this city. Of course abatement action is taken only against business places where the Volstead law has been fractured, dislocated or otherwise mussed up—or alleged to have been maltreated.

431 Now, I never catered to the Dyckman. I devoured a sandwich once in its cafeteria and my bankroll vanished when I paid my check. No more for I'm. I know when I've had enough. But:

Admitting that a bellhop employed at that hostelry DID deal a bit in contraband liquor and what then? Are the employers of labor responsible for every moral and alleged misdemeanor of their employes? Can business men who have no possible control over the individuals in their employ, be put out of business, their doors padlocked, their
432 invested capital ignored, their RIGHTS spurned because, forsooth, someone in their place of business disobeys a law—a law held in utter contempt by 80 per cent of the American people and daily violated by sixty per cent of that number?

If the Dyckman can be closed, its doors padlocked, then no place of business in the country is safe. No employer of labor but at once becomes liable to the virtual confiscation of his business, through no overt act of his own but through an act of an employe over which he has no possible control except as to specified duties performed or to be.

Not a bank, not a mercantile house, not a single business

institution where men or women are employed but can be closed and its doors locked. 433

It is such preposterously unjust acts that has done more —fully as much—to bring the prohibition law into disrepute than any other one thing. There isn't a reason in the world why the Volstead law cannot be enforced in the same manner and with the same impartiality as any other. There isn't a reason, a valid reason, why its enforcement should be attempted or attended with the savagery continually displayed by its supporters, or prosecution of its violators turned to persecution as is so often the case.

And the absurdity of the attempt to padlock the doors of a public hostelry because a minor employe sold a guest one bottle of liquor or half a dozen bottles, hurls no gorgeous bouquets at the prohibition bureau. 434

Enforce the prohibition law, justly, sensibly, sanely—if it can be enforced in that manner—if not, then let's have an end of the ghastly farce.

To the Public:

The police department has issued orders to all news stands that the Saturday Press must not be offered for sale. The police department has the power (not a "'right") to issue this order to curbstone dealers but has neither right nor power to forbid its sale by any dealer who owns his own place of business OR PAYS RENT. 435

If Chief Brunskill wishes to align himself with the blackmailing Twin City Reporter and the gambling syndicate, I can think of no better method nor more direct way than to ban the one paper in the city that dare attack them, from the news stands.

If in no other place in the city, the Saturday Press will

436 be on sale at its own office between the hours of 1:30 and 4 o'clock p. m., and our address is:

240 South Fourth Street, upstairs and to your right.

—J. M. NEAR.

THE SATURDAY PRESS

A WEEKLY "WHOS WHO AND WHY"

The Northwest's Snappiest Newspaper

Business Office, 240 S. Fourth Street

Two Dollars per Year in Advance

437 On Sale on News Stands, Everywhere, Every Friday

OUR MOTTO:

Laugh and the World Laughs With You

Grouch, and You Grouch Alone.

HOWARD A. GUILFORD

J. M. NEAR (The Old Man)

Editors and Owners

A First Class paper, mailable everywhere but not entered as Second Class Matter anywhere.

Dealers and Subscription Agents wanted. Liberal Commissions.

438

SQUALL.

"It will all blow over in a few days, boys, so sit tight," is the word percolating among the gang. Is that so! Well, you birds sit on your thumb until THIS squall blows over and you'll have a petrified digit. This is one squall you featherless cuckoos won't weather. Your tub sprung a leak on September 24 and it's going down fast. Your skipper is cockeyed right now from trying to look in every direction at the same time. In fact, he's afflicted with revolving eyes and curvature of the brain and the next thing you know

he'll have fallen arches of the tongue and that IS the end, for when a gangster starts pouring out the Bostons he scuttles the ship. 439

MISTAKEN NATIONALITY

During a chat with Guilford at the hospital the other day he remarked that POSSIBLY the gunmen who started in to slaughter him on September 26, were so ginned-up that they thought themselves down in our sister nation of Mexico where the president is always "unanimous" choice of the people. This "unanimity" stuff is composed of greaser gunmen and all opposing presidential candidates. But the time 440 the election is over, the winner is the only one left whose hide doesn't resemble the top of the family pepper box. Mr. Guilford wishes me to announce that he is not a candidate for Mr. Coolidge's or Al Smith's brogans and asks that all gunmen in whomsoever's employ hereafter (or words to that effect) be more judicious in their choice of shooting-moon or whatever they tanked up with prior to their military practice with himself as a target. They shot vilely and talked worse.

441

UP IN THE NINTH DISTRICT

Once more my friend Cheney of the Journal takes his trusty rattler in hand and broadcasts the "info" that things political are not what they should be in the great Northwest and especially in the Ninth District; and once more, as often, my friend views things awry.

He anticipates a "comeback" on the part of one Knute Wefald who once fretted the upholstering on a congressional bench, but I assure him Knute will not come back. He would not have gone but for:

Well, the story's worth telling.

442 A few years ago the Non-partisan Leaguers were sore pressed for congressional timber in that district. A. E. Bowen, one of the cleanest men Townley ever made a monkey out of, was "planted" in that district for the express purpose of taking Halvor Steenerson for a fall. Before the primaries Townley discovered that Bowen was not the supine tool he had thought him to be so Townley "repudiated" Bowen and denounced him through the columns of his papers, notwithstanding the fact that he had given Bowen permission to solicit funds with which to carry on the League's and his own campaign in the Ninth.

443 Bowen was dumbfounded but no quitter. He obeyed his chief's wishes to the extent that he withdrew his name and ceased soliciting funds for the League. There he stopped—long enough to locate a man acceptable to Townley or one so nearly acceptable that Townley dared not repudiate him.

He chose Knute Wefald as the man to oppose Halvor Steenerson. Knute ran a dinky lumberyard in his home town and it is said that he still has the first dollar he ever earned, though I cannot vouch for the truth of that rumor.

Bowen went to Wefald and said: "Wefald, we are going
444 to run you for congress against Halvor," and Knute's hair stood on end. He feared publicity such as Halvor would be sure to give him and he demurred.

Bowen was obdurate. Finally Knute blurted out, "Al right, but I wouldn't give a cent toward making the race." Canny old Knute! And who said that only the Scotch were cautious?

Bowen took the field in behalf of Wefald's candidacy. He made more than two hundred and fifty speeches in Wefald's behalf during that campaign. He asked Wefald for no financial support. In brief, he FOUGHT KNUTE WEFALD INTO CONGRESS and financed that bird's cam-

paign by the force of his own personality.

When Wefald was elected he never so much as sent A. E. Bowen a letter of thanks for what he had done. He was busy counting slivers in his lumberyard!

Wefald was dragged into congress by A. E. Bowen and after the latter had deposited the shrinking form of Halvor Steenerson's opponent in that old warrior's seat, Wefald forgot, ignored, the man who had made him and yet Cheney talks of Knute's "come-back." Why, Knute never got far enough of his own efforts to start a "come-back!" He's right where he was when A. E. Bowen picked him up and sat him down in the House of Representatives!

And he'll be right there when the '28 campaign is over. He hasn't any place to come back FROM! And, this man, Bowen:

The squarest shooter in the bunch; so square that though he piled tens of thousands in Art Townley's strong box, he came out of it without a dime. There isn't a man living who can point out one act of A. E. Bowen's (unless it be his blind loyalty to A. C. Townley) that is to his discredit.

He is the most forceful speaker in the state today. He is the most dangerous opponent that ever faced a Ninth district Republican nominee. And, Bowen will win the congressional toga in that district, regardless of what party tag he wears. The Farmer-Labor "leaders" will be out to "get" him, because they KNOW that A. E. Bowen will shoot square, not only with the people of the Ninth district, but of the entire state and the gentlemen who manipulate the Farmer-Labor vote are not desirous of having square shooters in office.

The yowl from certain "labor" quarters that the Citizens' recent bomb outrages is all the bunc. You fellows know

448 your clan. You babble suavely and lie fluently. Terroristic tactics never yet won a battle, yet you fools never learn. You haven't got the brains Nature gave a gosling. No wonder organized labor in this city is a grinning cadaver of what it once was.

Cockoo—Did you ever watch him play poker?

LAW AND ORDER—OR WHAT?

A grave challenge has been tossed at every agency having to do with the maintenance of law and order in Minneapolis.

449 Gunmen from the ambush of a curtained car shot at and wounded an editor of a weekly publication who had declared his intention to make an expose of "conditions as they are in this city."

The expose was to be directed particularly against alleged gambling which, the editors of the weekly say, was being carried on with little or no molestation. It had come to the ears of the wounded man, he said, that he would be "bumped off" if he carried out his avowed plan. The weekly, published Saturday, dared the unnamed challengers to do

450 their worst. The shooting followed within two days. The victim charged the shooting to members or hired agents of an underworld gambling ring.

The Tribune does not vouch for this theory or for those who sponsor it. None the less, the challenge to an unnamed ring becomes, because of the shooting, a challenge to those on whom lies the duty of preserving the dignity of the law and the good name of Minneapolis.

One thing is indisputable, to-wit, there was an attempt at murder by skulking gunmen. The threatened expose looks to be the cause of which the shooting was the effect.

This brings us to the point that the making of Minne-

apolis a battleground of underworld characters is something not to be tolerated. It is up to the police, the Hennepin county shrievalty and every other law-enforcing agency to see that this shall not be done. If there are gunmen bent on mob law, if there is an underworld gambling ring plying an outlaw business, if there are bands or syndicates who hope to defy law and order successfully by murder or intimidation, let nothing be left undone that can be done to rid the community of such creatures. 451

Minneapolis looks to its guardians to do their utmost to get at the bottom of this shooting and find what is behind it and what it signifies in terms of the sovereignty and dignity of this municipality. 452

—From the Minneapolis Tribune of Sept. 27.

CAUTIOUS JOURNALISM

I beg to call my readers' attention to the above editorial clipped from the Tribune of the date named. I also wish to inform the public that while no millionaire, I will give ten dollars for a second editorial of another date, from the same daily paper. In short, it is worth ten dollars to know that the Tribune staff would dare repeat even the timid sentiments they expressed in this issue. 453

However, the Tribune, in its first gasp of journalistic horror at the shooting of Mr. Guilford, gave utterance to a truth in its caption if not its editorial: "Law and Order —or What?"

Since that one amazed outburst the Tribune has remained silent though the Tribune knows, just as every other daily paper knows, that the very conditions exposed by the Saturday Press ACTUALLY EXIST IN MINNEAPOLIS, and knowing, they remain silent.

454 The Saturday Press has no quarrel with the Tribune. We understand the pitiful situation the editor of a daily paper finds himself in when a crisis arrives. He must save his salary even though the heavens fall and anarchy reigns supreme. Though a gambling syndicate operated within sound of the Tribune's editorial typewriters; though gangsters strolled through the corridors of its building; though gunmen lurked in its alleys, the "ethics of the profession" would gag the Tribune's voice. The Tribune isn't to blame that an unnamed fear possesses it; it fears, not for the lives of its owners or employes, but for a loss of advertising patronage
455 —the life fluid of EVERY daily paper.

And, lest it might have uncautiously tapped one of these veins, it intimates that the attempted assassination of Mr. Guilford is or might be the first skirmish of a battle between two underworld factions. I assure the gentle Tribune that the editors of this publication are as far removed from underworld relationship as any on its staff—bar none—and I say this in no spirit of sarcasm.

"The victim charged the shooting to members or hired agents of an underworld gambling ring. The Tribune does
456 not vouch for this theory or for those who sponsor it."

Fine!

We did not expect the Tribune to shoulder any responsibility in this fight but we surely expected the Tribune and the other daily papers to exhibit SOME interest in the deplorable situation the Saturday Press has uncovered, exposed.

We had a right to expect some support from the daily papers of this city, when we had proven our contention: That Minneapolis IS controlled by a gambling syndicate, reinforced by gunmen who, even the daily papers report as

having boasted that they would kill any man in the city for five hundred dollars! 457

If the Tribune admits (and it cannot deny) that this gang-boast was broadcast over the country by the daily papers and not by this police-suppressed sheet, then it must also admit that the "threatened expose" of the Saturday Press WAS BASED UPON FACT AND NOT THEORY.

Lest the Tribune fret for fear the machinegun hosts of the underworld use the streets of Minneapolis as a battle-ground, I assure them this will not, cannot happen IF THE TRIBUNE WILL DO ITS DUTY TO THE LAW-ABIDING CITIZENS OF THIS COMMUNITY. 458

It, the daily press, has only to throw its vast influence AGAINST gang rule, against protected gambling, against lawlessness, and there will be an end to the eternal threat of underworld gunmen against society.

The Saturday Press has done all in its power to awaken Minneapolis to its danger. One of its editors has been shot down by hired gunmen, and instead of scuttling for safety, it has continued its fight against gang rule—the rule no daily paper in the city dare deny or fight against.

Had we not been RIGHT in our contentions we would not have dared call the attention of the grand jury to the things we have; we would not have dared publish names and dates and places as we have—as we shall continue to do. 459

Two men, with no financial backing, practically without funds, have dared do what the combined capital and resources of THREE daily papers dared not do and yet:

We see these "great moral journals" shivering in their swivel chairs AFRAID TO TAKE A STAND FOR RIGHT, FOR JUSTICE, FOR A CLEAN CITY.

What a pitiful spectacle!

460 Instead of coming out boldly in defense of law and order; openly against crime and commercialized vice; against hired assassins and the scum who employ them, we see them quivering in abject fear—of gangland's wrath and a loss of advertising patronage. Instead of demanding that our charges be investigated and if proven true, that prosecutions REGARDLESS OF WHERE OR WHOM THEY HIT, be pushed, we see them humbly fawning, cringing at the spectre of an Unknown Fear.

No wonder we have near-anarchy in this city. No wonder we have so many "unsolved" crimes and so many free crim-
461 inals. When we glance through the myriad columns of slush composing our daily press, we are not so deeply impressed with the number of crimes unsolved and the number of criminals uncaught as we are that there are not more of them.

If the daily papers of this city will conscientiously investigate the charges the Saturday Press has made and will then help us BRING THE GUILTY TO JUSTICE, we assure the timid journalists that this will be ONE city in the country free of gunmen, free of syndicated and PROTECTED GAMBLERS, free of blackmailers.

462 And we can further assure these conservative gentlemen that with or without their assistance MINNEAPOLIS WILL BE FREED OF GANGSTERS, OF COMMERCIALIZED GAMBLING, OF GUNMEN.

Well, glory be! The "best chief of police Minneapolis ever had" has actually caused the arrest of more than one hundred auto drivers who had failed to equip their flivvers with periscopes: the latter to enable them to tell when their tail lights flickered and went out.

"These pesky krimernals hev gotter respeck law, by heck,

'r pay a hevy fine uv a doller," eh?

463

But let a gangman hammer the crownsheet loose on a businessman and then squirt sulphuric acid on his stock of goods and:

What did you say happened to the gangster? Nuthin, plus!

Statistics as to the increased business of undertakers since the advent of prohibition have not been made public. They would be interesting literature.

464

First Flea—Where will you send little Gerald when he grows up?

Second Flea—Oh, I suppose he will go to the dogs like his father.

Irate Customer—You can't fool me! Do you think I've bought groceries here for fifteen years for nothing?

Grocer—I shouldn't be at all surprised.

465

"Did you hear what Casey got for his tin wedding?"

"Sure, now, and Oi did not."

"Well, they do tell me he got tin days."

Beauty is only skin deep—which means about one inch of powder, two inches of rouge, and six coats of paint.

Roughneck (using phone)—"Give me 22 double 2."

Central—"2222?"

"Yes, hurry up. I'll play train with you afterward."

466 "I say, old man, did you know four people committed suicide off this bridge?"

"My word, why don't they condemn the bally thing?"

Love—it brings heaven down to earth and raises hell.

Cadet—Say, waiter, will you please close that window?

Waiter—Is there a draft, sir?

Cadet—Well, not exactly, but it's the fourth time my steak has blown off the plate.

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467 "What is life insurance, little Gagface?"

"It's keepin' a man poor all his life so's he can die rich."

EXHIBIT 5.

THE SATURDAY PRESS

Vol. 1, No. 5 Minneapolis, Minn., Oct. 22, 1927 Price 5 Cents

THE STORY OF A REAL CAMPAIGN DONATION

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468 How a St. Paul Bootlegger "King" Established Connections Over the Phone and Left Two Hundred Dollars for Chief Brunskill With Mose Barnett; Greets the Chief Effusively and Congratulates Him on the "High Class People" He Is Surrounded With; Offers Free Use of Three Autos and Expresses Regret That He Cannot Shake Hands; Selah!

If there has been a lingering doubt in the minds of Saturday Press readers as to the connection, the invisible bond of sympathy, between our chief of police and the underworld, I am going to dispel that doubt in this issue—unless the skulls of those "doubting Thomases" are as dense as the ex-beer-wagon driver's, which I doubt.

It is a matter of common knowledge in the city that during 469
the last municipal campaign, the underworld contributed to someone's campaign fund. No attempt at hedging on my part in this matter. I say that "A" campaign fund was raised among the underworld characters but whether that money, thousands of dollars, was ever USED in the election of or to defeat any candidate, I make no charge. The money was RAISED. Tribute WAS LEVIED.

WHO GOT THE MONEY?

Chief of Police Frank Brunskill, "the best chief of police Minneapolis ever had," has taken a keen delight in suppres- 470
sing this paper. Both Mr. Guilford and myself are firm believers in the law or rule of "If thine enemy smite thee on one cheek, turn thou the other also," but we keep our fingers crossed, and if we miss when we turn, it isn't our fault. This is our turn and we're not going to miss.

During the heat of the last municipal campaign a man known as the "king" of St. Paul bootleggers (though he may have been only a small "clown prince") entered the Mose Barnett establishment and expressed to that worthy his desire to meet Frank Brunskill, chief of police.

Exactly why he didn't emulate Ed Morgan's example and 471
trip jauntily into the chief's office, I wot not, but he didn't. Instead he wanted Mose, the gang-king of THIS city, to introduce the booze king of our sister city to OUR chief of police!

When he had made his wishes known, "Big Moe" stepped to the phone and called Chief Brunskill's office and when that gentleman answered and had properly identified himself to the gangster, the latter explained that he had a mutual friend at his elbow who wished to see the chief but was prevented through lack of time (but not through modesty) from

472 meeting OUR chief in person. And the introduction was made.

The ruler of the moonshine dynasty was tickled pink to have an opportunity of meeting Brunskill even over a long string of phone wire and he chortled:

"I never had a chance to shake your hand, chief, but some day I want to meet you. You must be a darned swell fellow and a right guy because you sure have surrounded yourself with a lot of high class people."

And there the conversational end of the line changed and our informant, not being in on the party, failed to catch the
473 chief's reply to the bootlegger's effusion. But the gurgle ceased on the other end of the wire and the St. Paul giggle-water dispenser broke out again:

"Can I do anything for you? I'm always willing to do my part," and the other end of the wire warmed up once more. When it tamed down for a moment the bootlegger warbled another stanza:

"Is two hundred enough?"

It evidently was, for after an instant's hesitation (on the bootlegger's part) the latter cut in with:

474 "Where can I leave the money?" and again an agonizing (!) silence while the chief was evidently debating the weighty problem in his mind. But his answer finally came—quickly and the "Saintly City" bird chirped up again:

"Well, that's right, too! Prob'ly not so good to come down."

And some more, but not much, silence and then Herr Hooch King twittered:

"Alright, I'll give it to Mose."

That seemed to satisfy all concerned and the jaw-fest continued with:

"Need any autos for campaign purposes, Frank? I

have three of them and you can have them any time."

A brief but affectionate ta-ta-tootsie or two were passed and the concert ended with the bootlegger turning to Mose Barnett and stripping two hundred dollars off a fat roll of bills, which Mose promised to deliver to Chief Brunskill without unnecessary delay. Fine stuff, isn't it?

Now, this may cause the chief's nerves to contract slightly and he may express a feeble wish to call a physician but the Saturday Press suggests that before he calls the pill dispenser he interview an attorney and look up the law on this matter.

Courts have already decided in numerous cases that the actual transfer of money between an official and a person who is, has or may be benefited by the violation of any law, need not be proven; that the secrecy naturally surrounding the act itself precludes the possibility of eye witnesses; that the acceptance of money or gifts of any nature by any public official from known violators of any law, is evidence of guilt of receiving a bribe and irrespective of the alleged purpose of the donation.

The assumption is that Brunskill was receiving, accepting, that two hundred dollars of a bootlegger's money for campaign purposes and the offer of the latter's three cars, gratis, for use in the then campaign, indicates that the two hundred Yankee kroner went into the mayor's campaign fund. If it didn't, then where DID it go? Did it go into Brunskill's new Lake Harriet home or into the mayor's campaign fund? It was paid to Mose Barnett and the latter agreed to turn it over to the chief.

The Saturday Press is investigating a few more "campaign contributions" of the same character as the one mentioned above and as long as Brunskill is so anxious to fight, we are perfectly willing to accommodate him. This is one time since he quit piloting a beerwagon in Minneapolis that

478 he backed up against the wrong buzz saw. And before we get too far away from that phone conversation, I want to ask you to ramble back to it and get a real chuckle out of the bootlegger's chatter.

". . . But some day I want to meet you." Think of the longing in that bootlegger's heart! Wanting to meet—anxious to meet—"the best chief of police Minneapolis ever had"—and couldn't do it.

Gimme your nose-napkin, Aggie, while I swab the brine out of my eyes!

And: "You must be a darned swell fellow and a right
479 guy. . ." Gargle that well before you swallow. That's right!

Well, don't we all know he's both of these—and then some? Darned swell (headed) and a "right guy" with the gang—Mose and Ed, and Jack and "Red," et al. and ad infinitum.

". . . Because you sure surrounded yourself with a lot of high class people."

I'll tell the cockeyed world he has! Some of the highest class shysters outside the penitentiary. High class? Nothing else, but! Nothing else, but!
480

What fulsome flattery—what wonderful praise—and:

From what a lily-white source—a bootlegger! A king (or was it a duke?) of the moonshine "die-nasty?"

High class! Take Mose for instance. A gangster. A fat-jowled Jew, despised by his own people, a skulking, cowardly cur, a slimy thing too foul to fight fair, a stranger to honor.

Ed Morgan, ruddy of face, portly of form—a human louse, a blackmailer, a would-be "bad man."

"Jack" Bevans. Bah!

"Red" Clare! Gambler, high chief of the nigger-domino

crooked game shared in by all. 481

High class timber, these buzzards!

"Can I do anything for you?" murmured the bootleg king (or was he a "Count?"). He can't right now for the Federal government gathered him in with its blanket indictment returned not long ago in Cleveland, Ohio! He's so busy trying to push himself out through the net that I'll wager a dime he has forgotten the man he was so anxious to meet when he left two hundred dollars with Mose Barnett as a token of his regard!

Now, friends, that is all of this incident—for the present.

Brunskill, as chief of police, took an oath to protect the 482 persons and properties of every individual in this city. He is being paid a good salary out of monies raised by taxing property owners of this city. He is PRESUMED to be law-abiding himself and he is PRESUMED to see that every individual is protected to the extent of the law's ability TO protect. And, what do we see?

During the last mayoralty campaign, Mr. Turner's adherents advertised a political meeting to be held in the vicinity of Eighth and Dupont avenues north.

They had a player piano on a small truck and between 483 selections, speakers urged the assembled citizens to vote for Mr. Turner. Nothing illegal in that. Nothing unconstitutional.

Quite a crowd had gathered when Brunskill drove up in a big car and within five minutes a gang of hoodlums began throwing eggs of uncertain vintage at the men and women and even a little girl, eight years of age, who had volunteered to play the violin. The Turner proponents were showered with the shanghai berries and just across the street Frank Brunskill STOOD UP IN HIS CAR AND LAUGHED HEARTILY AT THE SPECTACLE. Take a good hearty

484 laugh now, chief! Give this one the haw-haw!

But, what's the use?

What can the people expect from a man who graduated into the police department from the driver's seat on a brewery wagon!

It takes BRAINS to run a police department, and brawn, sans brains, to juggle beer kegs.

I wish to once more impress on the readers of this timid, shrinking, playful little publication, that neither of its editors SOUGHT this fight with Chief Brunskill. He forced it upon us and:

485 We're not "picking 'em out"—we're "taking 'em as they come."

We started this publication with the perfectly good intention of mopping-up on the gangsters, gunmen and blackmailers of the city. One of us got shot the first crack out of the box and before the unshot one had a chance to even get mad, out pops Sir Chief and proceeds to rap—not the gunmen who did the shooting, not the gangsters, not the blackmailers, but THE UNSHOT SCRIBE!

Is the man gone daffy? No one invited him into this scrimmage. He horned in! Nicest opportunity in the world 486 for him to have kept out, but he didn't. Instead of doing something to earn his biscuits, he tries to keep our finances so low that neither Bro. Guilford or myself can make the first payment on an oyster cracker. And then he expects us to handle him gently? How simple some folks are.

Where was Mose when the light went out—and that warrant came on?

I want to apologise tc many subscribers for the delay they were subjected to in getting their paper last week. Wrap-

pers containing the names of regular subscribers were in- 487
advertently mixed with several hundred miscellaneous wrappers and were not mailed until Tuesday, when the blunder was discovered, as usual, too late. Don't cuss—I did enough for all of us.

RINGING DOWN THE CURTAIN

In Next Week's Issue of This Paper I Will Ring Down the Curtain on the Twin City Reporter's Blackmailing Career; Exposing the Vilest Attempt Ever Made by That Vile Rag 488 to Wring Gold from Broken Hearts.

When Mr. Guilford and myself announced in our first (and to him, almost fatal) issue our determination to drive the Twin City Reporter out of existence, put an end forever to its blackmailing career, we didn't anticipate an easy victory, a one-round fight, but we waded on in.

The Reporter is firmly (or was) intrenched. Its proprietors have felt themselves immune to punishment. They have dodged indictments by methods and means that to the un- 489
initiated, seem uncanny and when indictments have been returned, they have managed to wriggle out of the net with apparent ease—until now.

The wriggling process from this time on will be difficult. In fact, the wriggle is about gone and the net is closing in fast.

In next week's issue, I propose to tell such of the reading public as can be reached by this paper, of the most dastardly attempt at blackmail the Twin City Reporter gang ever tried to "put over."

I shall mince no words and when that story is told AS IT

490 WILL BE TOLD IN SPITE OF FRANK BRUNSKILL, the Twin City Reporter will be a thing too fetid for human nostrils and if its proprietors are not haled to the bar of justice and made to answer for their hideous careers, then never again tell me that Justice is only blind—it is dead.

The chief of police has done everything in his power to prevent the Saturday Press from securing a circulation in this city. He will continue to do it AS LONG AS HE IS CHIEF OF POLICE. He is an open antagonist of any agency that seeks to cleanse Minneapolis of blackmailers, killers, gunmen and vice and the Ed Morgan-Jack Bevans-
491 Mose Barnett-"Red" Clare clique go to make up this aggregation. And the chief will do all in his power to suppress the Saturday Press—to prevent the exposure of these social lepers. Therefore:

I ask every MAN in the city to make a special effort to help me get the next issue of the Saturday Press INTO MINNEAPOLIS HOMES AND OFFICES. I want every man and woman in the city to read the story of this crowning act of infamy of the Twin City Reporter's infamous career. If it is the last act of my life, I will write it. I am no "jour-
492 nalist," thank Fate, but I am going to tell you in language you can all understand how the vile scum tried to blackmail the living and having failed, stooped to the unfathomable depths of defaming the dead.

Almost every man or woman in the city is familiar with some blackmailing act of the Twin City Reporter. In a direct or indirect way almost everyone knows of some friend or relative or acquaintance who has been forced to pay sums varying from ten dollars to thousands in order to keep, as they thought, the names of themselves, friend or acquaintance off the front page of that despicable rag—but few of you have the temerity to defy exposure or demand the Re-

porter gang's punishment for extortions.

In next week's issue, I am going to rip the hide off that buzzard crew and they are going to be indicted AND PUNISHED TO THE FULL EXTENT OF THE LAW—no whitewash goes.

Now, you who are wearied of the Reporter's foul existence —you who have been forced to pay tribute to that dirty rag— you who have suffered the tortures of the damned because you have had your relatives or friends pilloried on the front page of that sheet, that or your purses stripped of the last farthing in order to shield the name of those near and dear to you, GET BUSY and cheer up. THE END IS ONE WEEK OFF!

I am going to MAIL five thousand copies to Minneapolis people. Frank Brunskill, chief of police, may prevent this exposure of the Twin City Reporter's iniquity by denying the Saturday Press its right to be offered for sale on the news stands, but not even a Frank Brunskill CAN KEEP IT OUT OF THE UNITED STATES MAILS.

Watch for next week's issue of this paper. It will be the most scathing indictment of the blackmail ring that ever rippled over the keys of my old L. C. Smith rattler. It will increase the population of the Stillwater twine plant IF there is justice in Hennepin county. It will put that unspeakable gang in their proper category. Don't fret, I will not be "bumped off"—in time to keep that story from getting to you for IT IS ALREADY WRITTEN and provision made for next week's issue if I am "checked out." It will take money to mail these five thousand copies—one and one-half cents per copy is the postal cost, so:

I want YOU to send in a few stamps of that denomination —one and one-half cents. Don't send the money—I might get reckless and purchase the Federal Reserve bank with

your currency! Just help take care of the postage cost—that's all I ask. If you have a few friends to whom you wish that story sent, let me know how many copies you want (not in excess of 9 to any one person) or a list of names you want copies mailed to. Do this just as soon as you can. Right NOW!

Don't miss this. It is the hour you have been waiting for, the hour you thought would never come. It's HERE!

I'm going to take you back over a good man's life. I'm going to let you take a glimpse at his spotless career. I'm going to let you peep into his home and take one look at his face, peaceful in the "last grand sleep." And then I'm going to tell you a story of "journalistic" depravity that will curdle your blood. I'm going to strip the Twin City Reporter gang of vultures of their last shred of "respectability." Watch for, GET, next week's issue of the Saturday Press. You will have to secure it over and in spite of Chief of Police Frank Brunskill's protest and illegal barrier, but GET IT.

MODERNIZED JINGLE BELLS

Blow that horn, blow that horn, jump upon the gas,
Oh, what red hot fun it is, another car to pass!
Roaring down a concrete road, the surface sure and fine,
Give her all that's comin', kid, we're touching eighty-nine.
Ninety-five the meter says, the speeds laws all are hash,
Holy sweet patootie, but we're heading for a crash,
Toll, oh bells, toll, oh bells, keep tolling all the day,
For another sorry dumb-bell's busy being laid away.

"Did you hear about the robbery last night?"

"No."

"A garter attempted to hold up a stocking, but the stocking ran, darn it."

In the old days a college girl had to be naughty but nice. Nowadays she has to be nice and naughty. 499

The days when a Liberty bond held the spotlight are gone. "Bottled in Bond" monopolizes the calcium glare, these tranquil times.

ASK AND YE SHALL RECEIVE—NOTHING

Two issues back, I called the attention of the ministers of this city to known vice and crime conditions. I expected no grand rush of the ministry to my office for I realize the 500
economic necessity of caring for one's own, first, then one's self. If when these have been provided for, there still remains an unexpended energy, one MAY, if one chooses, "take on" a public adversary. But first "I," then "Mine"—always. It has ever been thus and thus it will ever be.

The average minister, no matter what his creed, is human and the fundamental human trait is self-preservation. It is theoretically noble but decidedly unsafe, to champion the cause of the "under dog." One gets one's self in awkward positions and no man loves to be placed or be found in any 501
position where he MIGHT be socially contaminated or jeered at by his less enthusiastic brethren. Therefore:

I experienced no sensation of disappointment when not a single minister answered my request that they take some part, major or minor, in the cleaning of gangsters, gunmen and syndicated gamblers in this city.

Gentlemen, I feel no resentment whatever. If I have any sensation at all, it is one of remorse. I should have known better than ask your assistance. I did know better, but I tried to make myself believe I was mistaken—had possibly been mistaken for, lo, these many years.

I acknowledge my error and beg your forgiveness.

502 Glancing through the pages of a Book, I read where a Plebian gathered about Him, as guests, as companions, as friends, men and women from the byways and hedges—from Shadowland, where the wall between Vice and Virtue is so low that it may be scaled with ease; but though I scan those pages carefully, I find not one instance where He sought and found, comradeship, sympathy, friends, in the "higher walks" of life.

He knew human nature. He knew that human hearts, having been ground between the millstones of adversity were 503 more responsive, more sensitive, more loyal, than those of the "upper stratum." And He sought and found the things He needed, the hopes He cherished, the companionship He craved, among those tarnished members of a Common Brotherhood.

And a page or two further on I read that when He found rascals and thieves dominating the city's temples, He neither asked for assistance from the Publicans and Pharisees (nor was assistance proffered), but scourged the rascals while the clergy of that day stood aghast and businessmen muttered 504 ominously or remained dumb.

I make no claim to a single virtue of that despiser of hypocrisy and scorner of sham. I came to you under no false colors. I am what I am, with apologies to neither man nor Maker.

I stood willing, stand willing, to make the same sacrifice that my buddy has made in order to rid this city of gang-rule, of gangsters and worse. I asked none of you to offer your body as a target for gunmen's bullets. I expected none of you to make the "supreme sacrifice." I asked only that you assist, not myself, not Mr. Guilford, but the law-abiding, self-respecting, DECENT citizens of Minneapolis to rid

themselves of these parasites, these mongrels and your 505
answer was a thunderous silence.

Perhaps not all of you read those lines. Perhaps not all of you understood them when you had read. Perhaps some of you scorned to lend a helping hand to a confessed agnostic. Perhaps others of you thought with that ancient one, "I am not my brother's keeper." I do not know as to that, but I do know, this:

You will help NOW or you will not help at all. There is no "tomorrow" in this fight. You are either for or against gangrule and protected gambling, for or against commercialized vice and gunmen, and you can fight with Mr. 506
Guilford and myself OR WE'LL FIGHT WITHOUT YOU.

If the "spectre of our past" rises to haunt you, very well. If our presence at the front distresses you so direly that you cannot bring yourselves to face the guns with us, stay out of range, but gentlemen, THIS FIGHT GOES ON.

—The Old Man.

SAMPLES OF JOURNALISTIC VERACITY:

FOUR INDICTED IN LAUNDRY 507
ATTACK BY ACID VANDALS

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2 Held in Guilford Shooting Accused Again in Franklin Avenue Raid

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Four men have been indicted by the grand jury in connection with an attack upon the Shapiro Laundry, 2615 East Franklin avenue, September 20, when vandals destroyed $8,000 in clothing and threw acid into the face of Sam Shapiro, the manager, The Journal was informed last night.

The four named as having been indicted were:

508 Mose Barnett, proprietor of soft drink parlor at 818 Hennepin Avenue.

Philip Moses, 1008 Morgan avenue north.

Paul "Irish" Gottlieb, who, 10 days ago, was indicted on an assault charge in connection with the shooting of Howard Guilford, publisher of a weekly paper in Minneapolis.

Harry Jaffa, also indicted in connection with the Guilford shooting.

Barnett and Moses have agreed to surrender to the sheriff's office Monday. Gottlieb and Jaffa are held in the county jail
509 awaiting trial on the assault charges growing out of the Guilford shooting.

Jaffa and Gottlieb are charged with first degree assault in the Shapiro case indictments, and Moses and Barnett were charged with being accessories after the fact, The Journal was informed.

The "accessory after the fact" charges against Barnett and Moses do not allege that Barnett and Moses participated in the attack on the Shapiro cleaning establishment.

September 20, four men, with pistols drawn, entered the
510 Shapiro establishment, held up four persons in the place, threw acid into the face of Mr. Shapiro and then sprayed acid over the shop, ruining clothing valued at more than $8,000.

The three other victims of the raid were Yale Moorvitz, 1206 James avenue north; Joe Safro, 801 Twentieth avenue north, and Mrs. Christine Anderson, 2453 Garfield avenue.

Shortly after Gottlieb and Jaffa had been arrested in connection with the Guilford shooting, Shapiro, Moorvitz and Safro were brought to the county jail to see the pair.

Jaffa and Gottlieb were arrested shortly after a gang of gunmen drove alongside a car in which Howard Guilford,

who had begun to publish a paper called the Saturday Sun, 511
was riding at Lowry avenue and Memorial Drive, and opened fire on Guilford, wounding him.

—Minneapolis Journal, Oct. 16.

FOUR INDICTED IN RAID UPON DRY CLEANER'S

Grand Jury Action Follows ong Hunt—Two Accused in Jail

Following an investigation of three weeks by operatives 512
of the county attorney's office and police, a secret indictment was returned late Saturday by the grand jury against four men charged with entering the dry-cleaning establishment of Shapiro Brothers, Inc., 2615 East Franklin avenue, on the morning of September 20, slugging one of the proprietors, and destroying clothing valued at $8,000 by the use of sulphuric acid.

Two of the men named in the indictment already are in the county jail, held on another charge. Warrants were immediately issued for the others. The names of the men are 513
being withheld until the arrests are made.

The crime was committed at 10:30 a. m., September 20, when Sam Shapiro, his partner, Yale Moorvitz, Joseph Safro, the manager, and Christine Anderson, an employe, were in the store. Flourishing a revolver, one of the men ordered everyone to face the wall. When Shapiro hesitated, he was slugged on the head with the butt of the gun. The invaders sprayed sulphuric acid over every piece of clothing in the store, and hurriedly departed in an automobile.

—Minneapolis Tribune, Oct. 16.

514 I cheerfully admit that my efforts are not "journalism," that my language is uncamouflaged, that even the most dumb can usually decipher my meaning, but I ask you who read these lines to glance again over the two items taken from our two "leading" daily papers, the Tribune and the Journal.

The Tribune deliberately lies to its readers when it says that:

"The names of the men are being withheld until the arrests are made," and the Journal rushes to defend my statement when it chortles that: "Barnett and Moses have agreed to surrender to the sheriff's office Monday."

515 These "great moral journals" have the same source from which to draw their information and both get it from that source. There is no partiality shown: They both have men who are employed to secure news of this nature and these men are not enemies; they secure their information and phone in their stories. Both phone the same thing and in time to reach their respective papers at approximately the same hour. Such being the case, and it is, how come that the Journal gives one version of the indictment of these rascals and the Tribune another? Was the Tribune afraid to

516 mention the name of Mose Barnett, gambler, gangster, gunman?

I have charged many times in the last twenty years that the truth is not in our daily press. They distort the truth or deliberately lie more times than they print the FACTS, and if because I blurt out the truth, though the lash sears the "wrong" back many times, I am "unprofessional," devoid of journalistic skill and diplomacy, then I thank the kindly gods that Nature saw fit to leave that portion of my intellect a void. I had rather be a louse in the cotton shirt of a nigger than be a journalistic prostitute.

Now, let's take their garbled versions and see wherein and

why they gave their readers less than a bevo percentage of TRUTH: 517

"The Journal was informed last night."

The "last night" in this instance meant Saturday night—it really meant earlier than that, but let's be generous with time and criticism.

Behind that one line the Journal sought shelter from possible Barnett squalls. The "Journal was informed"—the Journal KNEW, just as the balance of us knew and yet it hid. It was afraid to boldly state what it knew to be a FACT. It had no incentive to hide except the incentive that grips the heart of every coward—self security. If it was not 518
certain of its ground, it could have made certain in any ten minutes. If it doubted the veracity of its informant, it should have "checked-up on" that person and made sure. But it didn't. Instead it hides behind the stereotyped "The Journal was informed."

And, just what does the Journal mean when it says that ". . . Moses and Barnett were charged with being accessories after the fact?"

This paper charged two weeks ago that Mose Barnett had threatened Samuel Shapiro unless the latter conformed with 519
certain demands and in a letter to the Hennepin County Grand Jury under date of October 12th, it repeated those charges and yet the Journal discovers that Mose Barnett, gunman, gangster, got in on the Shapiro picture as an "accessory after the fact."

Why, Mose Barnett himself ADMITS, in a relayed phone message to myself, that he visited Samuel Shapiro BEFORE the assault took place, but he establishes the time of his visit as some ninety days prior to! A CONFESSION on the part of Mose Barnett that the Journal didn't tell the truth—a denial that he was an accessory AFTER the fact!

520 "Mose Barnett, proprietor of a soft drink parlor at 818 Hennepin avenue." A "soft drink PARLOR." That's rich!

A soft drink place where the sofest thing served was spiked near-beer; where ginger-ale was served only as a chaser to hi-powered moonshine. A soft drink parlor—with a dum-dum backing!

And at 818! The Journal is almost as reckless with its geography as the gunmen who shot Mr. Guilford. The location given by the Journal as Barnett's "soft drink parlor" is the location of the Barnett-Morgan-Bevans-"Red" Clare, et al., GAMBLING JOINT—headquarters of the killers, ren-
521 dezvous of the gunmen who have terrorized this city; "hang-out" of every notorious gangster and desocialized rat in the Twin Cities, but never a soft drink parlor.

Mose Barnett's "parlor" was 820 Hennepin avenue AND THE JOURNAL KNOWS THIS AS WELL AS I. It lied just as fluently when it flared forth the news that the police had raided 206 11th avenue south and arrested "Red" Clare for "operating a dice game," when it KNEW that the big game was operating AT THE TIME OF THE RAID just two doors away or at 208 11th avenue south.

522 If the Journal doesn't KNOW these things, it had better get a man on the job who can at least keep it within reasonable distance of the truth. So much for the Journal's brand of "journalism."

The Tribune breaks down when it declares in its headlines that the Grand Jury action followed a long hunt. Who did the hunting and what were they hunting and what were they hunting for and who? The police hunted—unlighted tail lights on rattling flivvers but not for the gunmen who assaulted Samuel Shapiro and threw acid over his stock of goods. No fault of the rank and file—THEY OBEY ORDERS. That's what they are in uniform for!

It is rather remarkable that though the police "hunted long" for these birds that it didn't "find" them UNTIL THE SATURDAY PRESS PUBLISHED THE STORY OF SHAPIRO'S BRUTAL ASSAULT AND CALLED THE GRAND JURY'S ATTENTION TO IT! 523

True, the police did permit Shapiro to view these miscreants after they had been arrested BY THE SHERIFF'S OFFICE for shooting Mr. Guilford, BUT THE POLICE DEPARTMENT MADE NO DEMAND ON THE GRAND JURY THAT THE MEN THEY HAD BEEN "HUNTING" FOR BE INDICTED—not at all. If the Saturday Press had not urged that indictment, had not demanded it, IT WOULD NOT HAVE BEEN RETURNED! The Tribune grovels at the feet of Chief Brunskill as though that worthy were a god, when in fact he's a joke. He couldn't trail a circus calliopse through the streets of a country village and find the steam organ. 524

"The names of the men are being withheld until the arrests are made," declares the Tribune, when its sister, the Journal, boldly announces in its edition of the same day and of almost the same hour, the names of all four of the men indicted. Was the Tribune afraid to tell ITS readers that Mose Barnett, gunman, gangster, had been indicted? Didn't it have the same facilities for learning the facts as the Journal? Was its man asleep at the switchboard while the names of these scullions were being phoned in by the Journal reporter? 525

And again: ". . . Two of the men named in the indictment already are in the COUNTY JAIL, held on another charge." But why stop there, friend Trib? Why not tell your readers that the two kunmen, CRONIES OF MOE BARNETT, are held in the COUNTY jail—(not in the CITY bastile)—arrested by Earle Brown, sheriff of Hennepin

County (not by Frank Brunskill, Chief of Police of this
526 gang-ridden city) and charged with first degree assault upon Howard A. Guilford, one of the editors of this paper?

Do you who read these lines wonder that we have a virtual reign of terror in this city when the two most influential daily papers distort FACTS, seek to protect the NAMES of gunmen, thugs, killers, gangsters, by omitting either their names or by giving the wrong location and classification to their "business"?

And, then, the hirelings of these grossly unfair sheets, these simpering sisters of an intellectual debauch, charge me
527 with being "unethical" and "unjournalistic!" Thanks for the compliment, boys, I assure you that I appreciate your scorn far more than I would your flattery.

Now friends, here are the FACTS as to those indictments.

Mose Barnett, the "soft drink parlor" operator, was indicted for assault in the first degree, as were the others, Philip Moses, Hary Jaffa and Paul Gottlieb.

The indictments were known to both these precious daily papers for "The Journal was informed last night" and the Tribune must have been informed at the same time. If they knew the indictments had been returned, then it follows as a
528 matter of course, that they knew the degree of the indictments—and knowing they pushed old Ananias aside and beat him at his own game, hands down!

I am not a journalist, thank the glorious gods, and if the day ever comes when I MUST prostitute MY small ability, I will don my scarlet derby and declare my profession to the world.

Night watchman—Let me in or I'll break down the door!

Stewed one hanging on piano—Go to hell. Thatsh the wrong knock to get into these f'ternity rooms.

Mary—Why, I thought you were going to give Bob's pin back to him, and here you are still wearing it. 529

Marion—I was going to, but he asked me for it first.

TENDER FRANK!

BRUNSKILL TURNS DOWN "HARD-BOILED" APPLICANT FOR BEAT

A man who bragged about being "hardboiled," is not one of 80 special police officers who went to work today.

More than 100 men lined up in response to the civil service call for temporary officers, and Chief of Police Frank W. Brunskill sorted them out. He picked them for height as well as appearance. Regular policemen must be at least 5 feet 10 inches tall. 530

As one man came up, Chief Brunskill remarked: "You're not 5 feet 10, are you?"

"No," the man said, "but I'm hard boiled."

"Well, that lets you out too," the chief said. "We don't put men on the force because they're hard."

—Minneapolis Journal, Oct. 16. 531

Friends, don't laugh, Frankie meant it and the reporters made him say it just "as is" or as nearly as they could remember how he would like to have it said—if he could. Of course nothing of the kind ever happened but "the best chief of police Minneapolis ever had" simply HAD to have a little more publicity. It would never do to let the ex-beerwagon driver pine away for lack of gab! And, to show our willingness to assist in the laudable project, we call attention to some more "publicity" for the chief which we present in

532 another column. There will be more to come. It pays to advertise and Frankie is sure one for some advertising.

JUST PHUNNY

"Handy, put some ashes on your sidewalk, 'cause you' daughter sho' am slipping."

"I've no kick coming," said the drunk as he slid off over the horse's neck.

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533 He was newly arrived in this country and was none too familiar with the use of the telephone. So he took the receiver and demanded:

"Aye vant to talk to my wife."

Central's voice came back sweetly: "Number, please?"

"Oh," he replied, perfectly willing to help out, "he bane my second vun."

Sam—Hell, Bill, been huntin'?

Bill—Yes.

534 Sam—Shoot anything?

Bill—Shot my dog.

Sam—Was he mad?

Bill—Well, he didn't act any too darn pleased.

Drowning Man—Ub—blub—elp—lub—ublugs.

Drowsy Bystander—You said a mouthful, brother.

It is human nature that some are hewers of wood and some drawers of dividends.

Senior—How do you like my room, as a whole? 535
Freshman—As a hole it's fine, as a room—not so good.

Old Gentleman—Yes, my boy, when I was your age, I could run 100 yards in ten seconds.

Skeptical Youth—What did they use to time you with in those days, sun-dials?

"That's the bunk," shrieked the chambermaid as the folding cot fell on her frame.

536

Patient's Wife—What is it, Doctor? Anything contagious?

Doctor—Oh, no, just a bad case of Scotch.

Prof.—Where did Lincoln get his knowledge of human nature?

Bright Stude—Following a mule.

It's the first step that counts—especially in an elevator shaft. 537

Father (at dinner)—Son, what part of the chicken do you like, now?

College Son (off guard)—The neck, of course.

Mother—How did you lose your teeth, son?

Son—Shifting gears on a lolypop.

538

THE SATURDAY PRESS

A WEEKLY "WHOS WHO AND WHY"

The Northwest's Snappiest Newspaper

Business Office, 240 S. Fourth Street

Two Dollars per Year in Advance

On Sale on News Stands, Everywhere, Every Friday

OUR MOTTO:

Laugh and the World Laughs With You

Grouch, and You Grouch Alone.

HOWARD A. GUILFORD

J. M. NEAR (The Old Man)

539

Editors and Owners

A First Class paper, mailable everywhere but not entered as Second Class Matter anywhere.

Dealers and Subscription Agents wanted. Liberal Commissions.

OUR REVENUE

A lot of grey matter is being agitated these days over the problem of "Who is financing the Saturday Press?" and heads wag dolefully over the elusive answer. 'Tis said that even

540

official domes have required icepacks after many weary nights spent trying to solve this problem. Men in every walk of life have been suspected, accused—but all to no purpose.

To save these adlepated fools further fret I will loan them this bit of information:

The finances of this paper are not wrung from the half-starved scarlet women of the city as has been done in a campaign none too far in the past and as has been done, is being done, by that detestable sheet—so tenderly guarded by OUR chief of police—the Twin City Reporter.

Not a dime, not a cent, has been secured by blackmail.

Not a yen has been secured, by threat of exposure, from some unfortunate devil who has tumbled from the pedestal of virtue. Not one cent has been snatched from the purse of an erring shop girl and not a sou markee from a tainted source. Now, try again, you ossified rodents. 541

But our bills are paid and our credit's good and our word passes at par. Can you slinking whelps say as much? And I'd see you further in Hades than a pigeon could fly in a thousand years, before I'd divulge the name of a single contributor to this paper.

542

The Democratic party is having difficulty ridding itself of the spectre of Al Smith. Like a cockle burr, Al simply won't shake off.

A CLEAN CITY

Wherever the "rubber-tired caravan" bivouacs, on Western mountainside, on Southern plain, in Eastern valley or Northern wood, the nomads exchange opinions, tire patches and cigarettes. The men orate more or less profanely on the moral characters of their respective flivvers and explain in 543
minute detail the result of their last major mechanical operation on the family bus. The women confide in each other that their one wish is to live long enough to get home while the youngsters swap one pocketful of "junk" for another as useless. But one and all are agreed upon one thing: That Minneapolis is the cleanest city in the country.

I have heard this around the mesquite campfires in desert camps; I have heard it in every important camp along the Yellowstone trail; down the Coast Route from Vancouver to Tia Juana, from the Mexican Gomorrah to the Ozark sum-

544 mits and back "home" again and always the same: "Minneapolis is the cleanest city in the United States."

They, these nomads of the present day—the restless tide that continually ebbs and flows across and up and down the country—has seen our parks, our lakes and streams, our boulevards. They have not guessed the polluted condition of our municipal body. Let's make that as clean as our landscape. Let's clean up our interior until no man can say of Minneapolis, "Bah! Nature made the outside but indifference on the part of the citizens and corruption on the part of politicians has made the interior a cesspool."

545 Let's clean house!

AS THEY COME

A businessman said to me the other day, "Near, aren't you two fellows showing partiality in your paper—rather picking out certain men or fractions as objects of your wrath?" And my reply was to tell him the following:

During the late unpleasantness in France, an English officer chanced to see a Yankee private sitting beside the road with his underwear spread over one knee while he searched
546 each seam for quarry.

With a friendly grin the officers said cheerily:

"Hello, chappie! Picking them out?"

The Yank looked up just long enough to send a stream of liquid nicotine clear across the road and then replied scornfully:

"Hell, no! Taking 'em as they come."

And that's us. We aren't picking 'em out—we're taking 'em as they come—BUT THERE ARE A LOT OF LICE ON OUR MUNICIPAL UNDERWEAR. Help us "crack 'em" by sending in your own and your friends' subscriptions.

TAKING NO CHANCES

A gentleman living in the city sent in a check the other day for a year's subscription but he was taking no chances. He wrote that IF we would send him the paper for an ENTIRE year, he would subscribe—otherwise he wouldn't. His check was returned by the next mail.

We EXPECT to be publishing the Saturday Press far more than a year. But we EXPECTED to be worth a million long before this—had those expectations before we left our teens. However, several things happened to prevent us from realizing our youthful expectations just as several things may happen to prevent us publishing this paper for an entire year, but:

We are going to publish it just as long as we are able to do so and any man who isn't willing to risk two dollars on our ability to "stick" had better keep his currency.

Mr. Borah emphatically insists that the prohibition question be treated as a major issue in the approaching campaign by both the Democratic and Republican parties. That should suit both wet and dry factions. Let's thresh the thing out now and then rethresh it again every odd and even election for the next seventy years. It's an issue, alright.

If the gang's champion could see the subscriptions rolling in, he would feel like Dempsey felt the night he fought Tunney in "Phila": Sort of wobbly in the legs and none too sturdy above the eyebrows.

A SUN'S DISCOVERY

Christopher Columbo may have discovered the New Continent or again it may have been that hardy Norsk, Lief Erickson, the exploits of those pioneers pales into insignificance

when compared to the more recent "discovery" of our own Minneapolis Journal, "The Northwest's greatest newspaper," to quote that illustrious baa-baa.

In an article clipped from the Journal of Sabbath last, and which I reproduce in another column, you will find evidence of a flaming comet scuttling across the journalistic horizon—the "Saturday Sun" and Bejabers, Oi foind me friend Guilford is accused av editin' it.

If the Journal ever arranged facts in even a semblance of order, one could readily believe the day of miracles had NOT passed—but it never does.

Of course if the Journal had mentioned Mr. Guilford's name in connection with the Saturday PRESS—but it didn't. Instead it discovered a "Sun" where there was barely the dim outline of a twinkle. It must be a wonderful sensation, this deliberate assassination of a truth!

GONE!

'25—Did you hear about Bill having an arm taken off last night?

'26—No, how did it happen?

'25—He was calling on his girl, and when he put his arm around her, her father took it off.

YESTERDAY, TODAY AND TOMORROW

At the risk of being called a "repeater," I am going to once more and possibly not for the last time, call the attention of the many readers of this paper to the pitiful spectacle of our chief of police, Frank Brunskill, rushing to the defense of the Barnett-Morgan-Bevans gang of blackmailers, gamblers and gunmen and his senile attempts to stifle and expose of these rascals or their machinations in this city.

The Saturday Press is not displayed on curb news stands

despite the clamorous demand of the public for it. It is on 553
sale on but few inside news stands and those who do handle it are compelled, because we are afflicted with a police chief who prefers gangsters, gamblers and gunmen as associates rather than respectable citizens to sell it surreptitiously—"bootleg" the few copies they dare stock up with.

The Saturday Press never attacked the police department nor the irrascible chief until that worthy issued an edict, banning the sale of this paper on the news stands of the city, but it DID and will continue to attack protected gambling syndicates in spite of Frank Brunskill. It did and will continue to fight gang rule in spite of Chief Brunskill's savage 554
defense of those undesirable citizens. It did and will continue, in spite of Chief Frankie, to protest the surrender of this city to gangs of armed killers and thugs. Because the Saturday Press dared expose these damnable ulcers on our social body, Frank Brunskill declares this publication cannot be sold to the men and women WHO ARE BEING TAXED TO PAY THE GANG-DEFENDER'S SALARY! And to back up his declaration of war against this paper, he utilizes UNLAWFULLY, the police force of Minneapolis by ordering uniformed officers to see that no news stand displays or 555
offers the Saturday Press for sale. A lovely situation!

One of his officers informed a news dealer that the order had been issued to suppress the sale of this paper because it "incited to riot."

Does Brunskill call it "inciting to peace" when gangsters assault a business man and destroy his stock of goods with acid? Does he consider the shooting of a defenseless citizen by two HIRED gunmen as contributing to the "peace and security" of the community? Did he consider the operation of the gambling joint at 818 Hennepin avenue as "inciting to peaceful pursuits?" Does he consider the career of Mose

556 Barnett and his gang of killers paramount to the peace and dignity of the city?

No, NO! Frank Brunskill considers any expose of these unlawful combinations, gangs and syndicates as "inciting to riot!"

And, so, he uses the power vested in him as chief of our police department, to PREVENT the taxpayers from learning through these columns the TRUTH.

Who is this upstart, Brunskill—this guardian (!) of the public's morals (and gangmen's code)? Why, he is the SERVANT of some half million law-abiding citizens and yet he
557 thinks himself omnipotent! He's a servant, an underling, in our municipal household—and yet he usurps the powers of a czar.

This publication circulates through the United States mails without protest or hindrance and if it were obscene, lacivious, lewd or of a nature calculated to incite riot it wouldn't be permitted in the mails!

Absolutely the only excuse Brunskill can offer, for barring it from the news stands is that it EXPOSES THE VICIOUS DEPTHS TO WHICH MINNEAPOLIS HAS SUNK
558 UNDER FRANK BRUNSKILL'S ADMINISTRATION.

More than a quarter of a century ago the taxpayers of Minneapolis SENT A BETTER CHIEF OF POLICE THAN FRANK BRUNSKILL TO PRISON FOR PROTECTING GANGSTERS AND VICE and history has a nasty way of repeating itself! Those "old timers" were slow to act but when they acted they stuffed Stillwater FULL.

The Saturday Press sought, seeks, no fight with Chief Brunskill, but by the eternal gods, it WILL FIGHT and it will mop-up on the gunmen who have terrorized this city; it will clean house with the gambling syndicate; it will make it possible for the small (or large) businessmen to operate

without paying tribute to gunmen or live in fear of their assaults OR IT WILL STUFF STILLWATER ONCE MORE! 559

Where are our courts? our prosecutors? that they permit this blatant burro Brunskill to prostitute his high office?

His arbitrary suppression of this paper upon its first attack on the vices KNOWN TO EXIST, is or should constitute prima facie evidence of guilty knowledge on the part of Brunskill THAT THESE ILLEGAL INSTITUTIONS AND PLACES EXISTED.

He made no effort to ascertain the facts in the case the Saturday Press presented to the TAXPAYERS! He offered 560 no assistance in eradicating these conditions, long known but first exposed in these columns. Instead he FLOUTS THE LAW HE HAS SWORN TO UPHOLD and attempts to suppress the only paper in the city that dared defy gangland and he made his first move against us THE DAY FOLLOWING THE GANG'S ATTEMPT TO ASSASSINATE HOWARD A. GUILFORD!

Is it possible that our law-enforcement machinery has reached that level where a private citizen must come cringing at the feet of Justice and BEG that a police chief, 561 SWORN TO UPHOLD THE LAW BE FORCED TO RESPECT HIS OATH? If so, then I presume we shall be forced to appeal to the courts and ask the judiciary to compel the chief of police of Minneapolis TO OBEY THE LAW! That's all we ask of Chief Frank Brunskill—simply that he OBEY THE LAW HIMSELF and permit his officers to do likewise.

When the Ku Klux Klan made its savage attack against former Chief C. A. Jensen, I defied the Klan and took up the cudgels in defense of then-Chief Jensen and I did it in the face of threats as intense and bitter as any uttered by the

562 scavengers gathered under Mose Barnett's black flag, so I cannot well be accused even by the present administration, of being "agin" AN HONEST CHIEF OF POLICE and C. A. Jensen was that same thing—an honest man.

And when that fight against Jensen waged hottest, the daily papers, cravens then as now, as ever in a crisis—cowered and cringed in fear of the "unknown threat," the Ku Klux Klan—just as they cringe today in fear of that Jew spawn, Mose Barnett and that ruddy-faced blackmailer and gangster, Ed Morgan and Ed's dirty rag, the Twin City Reporter.

563 I fought for the present mayor during those placid days when he was under the guns of the Klan, while the vile Reporter and its cutthroat crew spewed its slime UNMOLESTED on the news stands, so the administration will not have far to dig in the archives of a nearby past to find that when it was RIGHT, I fought for it just as earnestly as today, WHEN IT IS WRONG, I fight against it.

Put a man in that chief's chair who is broad enough between the eyes to know and obey the law HIMSELF—a man willing to enforce the law against gangsters, gambling syndicates and killers—a man willing to co-operate with
564 ANY AGENCY that seeks to make this city a safer place in which to live and I pledge you there will be no word of criticism of that man from my pen.

I made this city my home for ten years and during the four years I drifted about the Pacific Coast desert states, there wasn't a moment when I didn't dream of the day when I could call Minneapolis "home" again. I can call it "home" now and I'm glad of it. I wouldn't trade a handful of its soil for all the "golden West" and that's why I'm willing to fight for it, die for it if I have to; but I hate like h— to return and find myself FORCED into a fight with the police

department AND gangland, standing shoulder to shoulder, 565
hand in hand. I hate even worse than that to find "my ol' home town" ruled by gunmen and lorded over by a chief of police who is evidently more solicitous of Jew gangsters than he is of respectable Jew or Gentile.

And the rank and file of our, OUR, police force who are so anxious to enforce their chief's unlawful order against this paper will not have to strain their memories very hard to recall a day when they were glad to see a publication on the new stands whose editor had the courage to face a hostile daily press and a hooded gang of terrorists and defend their 566
department against all comers.

But you had a MAN as chief—then—a man who had the courage OF a man. A man who smiled in the face of a sullen fate and dared the thugs and gunmen of his day to do their worst; a man who obeyed the law himself and demanded of all others that they follow his example; a man who scorned to cater to the scum of the underworld; a man, that's all—not a defender of gamblers, gangsters and gunmen.

What would you fellows have thought of ex-Chief Jensen if he had ordered the suppression of every paper in the city 567
that covertly (they were too cowardly to do it openly) tore at his good name and reputation while the Klan was seeking his downfall? Jensen knew the law and knowing, he obeyed. He KNEW he had no legal right to interfere with the sale of ANY publication even though it were opposed to his department and he asked none of you men to disobey the law—as you are asked today.

The Saturday Press has no apologies to offer for this "harping" on this subject—its suppression on the news stands of Minneapolis by the illegal act of a bonehead chief.

Its editors know the law and we are doing something Chief

568 Brunskill dare not do—we are TRYING TO DRIVE GANGSTERS AND GUNMEN OUT OF MINNEAPOLIS and we're going to do it if we have to drive Brunskill with them.

You, the city administration from super to chief, from Alpha to Omega, didn't call me "yellow" when I fought for you four years ago, and I haven't changed color.

—The Old Man

Cuckoo—He's a chip off the old stack, believe me.

Cula—Stack! You mean block.

569

THE "DUCK HUNTER" DUCKS

Well, Mose the "tough boy" is A. W. O. L. Flown the coop, as it were.

The "proprietor of a soft drink parlor" despite the careful nursing of the daily papers, was indicted for assault in the first degree for his part in the Samuel Shapiro case. It pained the scribes that this was so, but it was.

Sunday evening I received a "tip" by phone that "Big Moe" was leaving for parts unknown.

570 On Saturday last, his attorney had promised that if his client was not locked up, he would be produced in court at 2 o'clock p. m. on Monday.

The attorney felt himself secure in making this promise but he had "reckoned without his Jew."

Two o'clock came and went on Monday—it has come and gone on several days since, but Barnett has not arrived. He preferred "leg bail for security."

The daily papers insist that Mose is out on a hunting trip. If he is, he's hunting for a hole in which to hide! His religion (if he is a good orthodox) effectually bars him from hunting game—from devouring it if he chanced to kill. So

that alibi smells bad. Try again, boys: You might have him away on a fishing trip but not hunting ducks! 571

The disappearance of Barnett almost before the ink had dried on the indictment document, has given rise to some ugly rumors. It is freely gabbled that he had advance information of the indictment and feeling that the great outdoors was preferable to the close inside, he, to use Bevans' pet expression, "took it on the lam."

Whether these rumors are foundless or not, the fact remains that his escape is peculiar, to put it mildly. It is also an admission of his guilt as well as an admission that everything the Saturday Press said of or about him WAS THE TRUTH. 572

Mose knew we HAD HIS MEASURE!

He knew he was guilty of the Shapiro assault. He was frightened that he would be charged with complicity in the shooting of Mr. Guilford and with his past criminal record as a foundation, CONVICTION ON EITHER OR BOTH OF THESE CHARGES MEANT PRACTICALLY LIFE IMPRISONMENT—and Mose, gunman, gangster, thug that he was, didn't want to manicure sisal the balance of his natural life! 573

Mose was the "Soapy Smith" of this city. He was the "bad man" who wagged his jaw while his dupes and tools did the shooting. But unlike the original "Soapy" of Skagway, he didn't have the physical courage to face the final test but legged it away like the coward he was.

This was one time in his dirty career when he couldn't "fix things." He tried through the medium of a "friend" to "fix" the Old Man hereof a few nights before he took to the tall and uncut but the reply he got to his proposal took his breath away and right there his nerve left him. The shock of having two of his best gunmen cached under the

574 watchful eye of Sheriff Brown, coupled with his inability to "fix," pushed the barrel of ochre in his anatomy clear to his ears.

But Mose will come back, boys—be brought back, rather. This is one time that tough Jew ran away from the wrong man. Sheriff Brown will come trailing in one of these bright Fall mornings with that Yiddish "duck hunter" dangling at the end of a set of handcuffs. There's just one place where Mose Barnett can locate and remain there indefinitely and that is Sheol. Any port short of that place is unsafe for Mose. He's due to return.

575 It may take Brown a week, two weeks, three of them to land him, BUT HE'LL GET MOSE, THE APACHE "KING," eventually.

In the meantime, while the Sheriff is hunting for Barnett, the Grand Jury might spend a few afternoons locating the bucko who tipped Mose off to the indictment!

It might also endeavor to plug up that leak by shifting things and individuals around a bit (and out, as well).

It might also make inquiry in certain quarters as to WHY Mr. Shapiro's case was not brought to the attention of the
576 Grand Jury IN THE REGULAR MANNER, instead of being sidetracked until the "only unshot editor on the staff" called the Grand Jury's attention to the case. It might also spend a very pleasant afternoon quizzing Chief Brunskill as to what that gent did toward apprehending Mr. Shapiro's assailants! I imagine Frank's answers would be very entertaining.

And while it is having all this fun, it might ask the chief what he has actually done toward finding Barnett SINCE his escape. If not too much bother, it might get him to explain what action he has taken, AND WHEN, looking to the apprehension of Howard Guilford's assailants.

You members of the Grand Jury can have a delightful time for the remainder of your all-too-short session if you follow my suggestions. 577

A am quite sure Brer, Brunskill will be glad (!) to give you all the information he has accumulated. He will doubtless have it packed away in his watch case immediately under the flywheel of his Ingersoll.

Don't pester him, just ask him. He's a lovable cuss—in reverse English.

And while we're waiting for the band to tune up the bass drum, some of you gangsters wig-wag the "stay duck" signal to out-of-town Mose. Or: 578

If he is ducking around the back alleys of this balliwick, tell him to keep out of Brunskill's way—he might get slapped on the wrist watch if the chief "finds" him! And, you might cluck to him that if Earle Brown locates him for thirty seconds, it will take a Bar Association and two state legislatures to keep him out from under the courthouse clock ten minutes. In brief, Sheriff Brown will yank him from where he is, to the county jail while the City Hall clock is ticking once.

579

EXHIBIT 6.

THE SATURDAY PRESS

Minneapolis, Minn., Oct. 29, 1927

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THE CROWNING ACT OF AN INFAMOUS CAREER

How the Twin City Reporter, Vile Alchemists of Extortion, Balked in Their Effort to Transmute Tears Into Gold, Stooped to Defamation of the Dead; This, the Crowning Act of Their Infamous Career, Should Bring Down the Curtain on This Blackmailing Gang.

580 Friends, I promised you last week that in this issue I would disclose the almost unbelievable depths to which the Twin City Reporter publishers have sunk. If when you have read this story of that sheet's depravity, you are not agreed with Mr. Guilford and myself that it shall be forever silenced, its editor and publishers driven back into the "rank" from which they sprung, forced to suspend publication or be sent to prison, then your case is hopeless.

Forty-six years ago a young ship's carpenter in the fishing village of Hosanger, Norway, stood before the minister of the local "kirke" and pledged that he would love and cherish,
581 honor and protect the winsome little girl who had placed her life, her future in his hands and keeping. Three weeks later K. B. Birkeland and his bride took passage to America —the Mecca, the Utopia, coveted, dreamed of, longed for, by youth and patriarch of every land.

Birkeland's youthful days had not been spent in idleness. Thrown on his own resources while yet in his early teens, he had mastered the ship carpenter's trade and at the same time managed to acquire an education. By dint of great self-denial and perseverance, he had graduated from the
582 lower branches and eventually attained a professorship in academic courses.

Upon his arrival in the United States he sought and obtained a position as instructor at the Augsburg Seminary in this city. This was late in the fall of 1881. Before he had been long at the Seminary, he took up theological studies and a few years later was ordained a minister of the Norwegian Lutheran church. He held the pastorate of churches of that denomination in Argyle and Hallock, Minn., and later was sent to the Badger, Iowa, church, from which he was recalled to take charge of the Lutheran church at St. Paul.

But the Rev. Birkeland felt that Minneapolis was his "home town" and after a short time spent in a St. Paul church, moved back to this city and became prominently identified with the Augsburg Seminary. He was a man of exceptional intelligence, a deep student and a versatile writer, being the author of almost a score of bound volumes that ran the gamut from hymns to fiction. He was also at one time editor of the Norwegian Lutheran "Free Church" publication, the "Folksbladt." His last book, "The Whalers of Akutan," a story of the Alaskan seas, was being printed by the Yale University Press at the time of his death. 583

But I am not going to write a biography of Rev. Birkeland. I am sketching his life briefly in order to show my readers something of the character and ability of the man the Twin City Reporter later spewed its foul slime upon—after he was dead. 584

From the ministry, from the editorial desk, Birkeland branched out into commercial fields. In 1901 he was actively employed in colonizing a portion of Saskatchewan province for the Canadian government and at the same time engaged in the lumber business in that province. A few years later he brought Fritjof Nansen, the great Arctic explorer, and the latter's partner, Capt. Otto Sverdrup, to this country where he hoped to interest them in the whaling grounds along the Alaskan coast. As a result of their investigations, the North Pacific Sea Products Co. was organized and Rev. Birkeland remained a member of that firm until 1917. 585

A year later he became financially interested in oil properties in Texas and at the time of his death, he was engaged in a bitter legal controversy to establish his ownership to certain valuable Texas oil properties.

On December 1st, 1925, his dead body was found in a poor-

586 ly furnished room at 28 North 12th street, this city.

Our police chief, for reasons peculiar to those of his high intellectual status, seems to have decided, the instant he learned of Rev. Birkeland's death, that that gentlemen had died of causes other than violent.

The "investigations" to determine the method or means of death, were farcical, to say the least. Doubtless it was the ghastly pretense of these "investigations" that bolstered the courage of the Twin City Reporter ghouls and steadied their nerves for the crowning act of their career as character assassins and blackmailers.

587 Before funeral arrangements had been made, phone calls from an "unknown friend" began coming in to the bereaved families, telling them that if they wished to avoid "exposure" of Rev. Birkeland's life and the manner of his death, they had "better act quick" as the Reporter had the story and would run it unless they were "seen."

The sum necessary to prevent this "exposure" ranged from an unnamed sum to six hundred dollars.

Even on the day of the funeral, while the minister of their church was holding the last rites over the body of Rev.
588 K. B. Birkeland, a message was received by a member of the congregation telling him that the story, shamefully libeling the character of the dead man, would appear in the next issue of the Reporter UNLESS A CASH SETTLEMENT WAS MADE FORTHWITH.

If you can beat that for undiluted hellishness, you will have to frisk the nether regions for your subject. Think of it!

BLACKMAILING THE HEARTBROKEN RELATIVES OF A MAN WHO EVERY SHRED OF EVIDENCE INDICATES WAS FOULLY MURDERED!

Threatening to publish a framed story of his "downfall" unless they were paid several hundred dollars AND THIS WHILE TEARS WERE STILL WET ON THE CHEEKS OF ANGUISHED WIDOW AND CHILDREN! 589

Friends, I tell you that for fiendishness and utter depravity, this act of the Twin City Reporter scum has no parallel.

The chill hand of the sculptor, Death, touches cold clay and the brow of plebian or king, furrowed by the perplexing problems of life, smooths under the touch of that shadow hand and attains a grandeur that commands respect of all but wolves and swine.

And, while the bells were tolling as the funeral cortege wended its sorrowful way into the little church—as the choir sang softly while the mortal remains of Rev. K. B. Birkeland was being carried up the aisle—while the heartbroken family sought to comfort the cruelly bereaved widow, these ghouls down in the Twin City Reporter office were gloating over their opportunity to commercialize the agony of the living or libel the character of the dead! 590

I ask YOU to put YOURSELF in the place of these bereaved ones. I ask you who have loved and lost, to pause a moment in your play or labor and ask yourselves, what YOUR thoughts would have been had YOU been son or daughter, widow or relative of the Rev. K. B. Birkeland that morning: with your heart crushed under the awful blow to have the fingers of a fiend tearing at it, to have the strident voice of an imp in human form demanding of YOU that you stifle your sobs long enough to pay more than half a thousand dollars else see the name of your loved one blackened. What would YOU have done? 591

Not one in a thousand who would not have said to the beast: "I surrender. Protect my father's name and I'll give

592 you what you demand, EVEN THOUGH I KNOW MY FATHER IS GUILTLESS OF YOUR FOUL CHARGES." And who could blame you? None.

Lips sealed with death are voiceless. Hands crossed and cold cannot be raised in defense of self or loved ones and knowing this, these soulless brutes demanded of the Birkeland family that it submit to extortion or they would blacken the reputation of their murdered father.

Again I say to you that for undiluted hellishness this dastardly act has no parallel—it has never been equalled even by the Twin City Reporter gang of blackmailers and extor-
593 tionists.

But K. B. Birkeland's family had a boundless faith in husband and father. His friends, and they were legion, knew the spotless character, the noble life of this grand old man of the ministry. His life had been an open book and on no page was there a blot. So, they took counsel with themselves and, firm in their faith and secure in their knowledge of their father and friend's unselfish life, they refused to purchase immunity and defied the rodent's demands. To them and to all men and women of intelligence or cleanly minds or lives,
594 it was preposterous to think that men existed who would stoop to defamation of the dead that they might reap a few paltry dimes—that for the few papers they might sell on the streets, they would libel the name of a man who had spent more years of his life doing good in the world than they had spent living in that world. But they little knew the type of mongrels with whom they had to deal.

Balked in their attempt to blackmail the living, these swine turned to defamation of the dead.

In their next issue of the foulest rag that ever circulated through the mails, the vilest sheet that ever appeared in this

or any other city, the vultures swooped down on the unblem- 595
ished name of Rev. K. B. Birkeland and told a story so vilely untruthful and so filled with putrid insinuation and inuendo that it must have sickened the cur who penned it.

THE TWIN CITY REPORTER GANG KNEW THAT EVERY WORD OF THAT STORY WAS A LIE; THEY KNEW THAT EVERY INSINUATION WAS AS ROTTEN AS THE CESSPOOLS OF HELL and they knew that the source from which that breed of accusations sprang was polluted beyond the power of language to describe—yet knowing, they published, that which they and their "informants" KNEW to be a miserable lie. 596

I am taking up more space than I intended and yet I am not half done—the story cannot be told in one issue—but I want you to bear with me a moment. I want to impress upon your mind, YOUR mind, that while this filthy sheet, the Twin City Reporter, IS PERMITTED TO EXIST the character of NO man and no woman is safe. When it cannot commercialize your grief, when you will not submit to its extortion, it defames the reputation of your dead.

And, I want to tell you what a price one victim of that 597
brutal lie paid that Ed Morgan and J. D. Bevans might clink a few more dollars in their bulging wallets:

The widow of Rev. Birkeland was almost distracted during those awful days when her husband could not be found and when at last the bungling police department discovered his body long cold in death, her grief was pitiful. Her condition was so critical that the family dared not apprise her of the attempt at extortion or the threat that accompanied that attempt. When, on the day of the funeral the curs through "an unknown friend" again threatened over the phone to publish the foul canard, the despicable lie, built up by fiends

incarnate, to blacken the character of her dead, the family protected her—they kept from her this last dastardly blow. But when at last the story appeared in the filthy sheet and she read that blackest page, reason all but fled and her eyes, scalded with ten million anguished tears gave way and today she gropes in semi-darkness, almost blind; blinded, this brave little woman, her sight sacrificed that Ed Morgan and J. D. Bevans, owners and publishers of the Twin City Reporter, might garner a few pennies, a few dollars more in the field of Human Anguish.

That they, these jackals, these avatars of infamy (I grope blindly for words with which to express my scorn of them) might strut and flaunt their ill-gotten wealth and loll in fetid luxury, this woman who had countless times given generously of her plenty to those in want—this woman who had lived unselfishly, remembering always that "unto the least of these, my brethren" meant that and volumes more—must grope in darkness the few remaining days of her life!

Friends, I tell you that this crime, and it IS a crime—this defamation of her dead—is beyond the power of words to describe, and I wonder with that ancient one, "How long, O, Lord, how long?" will you people of Minneapolis stand passive, silent, paralyzed with fear of this unspeakable sheet, the Twin City Reporter?

Are you all cowards? Are your veins filled with ochre, that you hesitate to help us crush that foul thing? Its publishers MUST be brought to the bar of justice and made to answer for this, the crowning act of their infamous career.

The Twin City Reporter can be forced to suspend and it will be if each and every one of you who read these lines join us in our demand that it cease circulating through the mails and that Chief of Police Frank Brunskill cease protecting it

by placing a ban on this publication—the only paper in the city that dares attack it. 601

We of the Saturday Press are NOT pleading with you that you join us in our fight against this vile rag, the Twin City Reporter, for OUR protection. We are capable of protecting ourselves, but we DEMAND of you that you PROTECT YOURSELVES AND THE REPUTATIONS OF YOUR LOVED ONES.

When even the sacred precincts of death are invaded by that gang of character assassins, it is time to call a halt and we are calling it. The blackmailing career OF THE TWIN CITY REPORTER ENDS! 602

The authorities have the power to put an end to the activities of this gang AND THEY ARE GOING TO DO IT OR WE WILL TAKE IMMEDIATE STEPS TO COMPEL THEM TO. We are not given to idle threats. WE MEAN BUSINESS even if some of you timid ones still doubt our sincerity of purpose.

BARNETT GANG READY TO REOPEN OLD HAUNT 603

The Barnett-Bevans-Morgan, et al. Gang Said to Have Already Begun Moving from 818 Hennepin Avenue to 208 Eleventh Avenue South; Intend to Stage the Grand Opening on November Second—Just Three Days Before the New Grand Jury Convenes; Watch 'Em Try It!

Rumor is rife that the gang, emboldened by Chief Brunskill's apparent success in banning this paper from the news stands, has remodeled 208 11th avenue south and is preparing to reopen that joint ON NOVEMBER 2nd. The

604 syndicate's paraphernalia, including crap and "black-jack" tables, have been removed from the 818 Hennepin avenue joint once presided over by that noted "duck hunter," Mose Barnett, and installed in the old-new den.

Now gentlemen, that move may be alright, but you take this tip: TWO HUNDRED AND EIGHT, ELEVENTH AVENUE SOUTH, DOESN'T OPEN ON NOVEMBER SECOND OR ANY OTHER DATE.

You birds had as well come to your senses now as later. YOU ARE AT THE END OF THE TRAIL. Here's where
605 you unload and either portage a long way around or get out and wade. You don't ride any further.

I admire your guts but I can't say that I am in full approval of your judgment.

To refresh your memories a little, permit me to call to your attention an incident that happened within the last decade.

Former Chief of Police Sommers of St. Paul was "sitting as pretty" as Frank Brunskill ever sat. Sommers had HIS County Attorney at HIS back and Sommers felt secure. He rode high and ruled supreme, until

606 A few public spirited citizens of that village got together and called for a special grand jury and a special prosecutor. Do you birds recall what happened? Well, Chief Sommers was extended the courtesy of being permitted to resign or make small strings out of big ropes down at Stillwater.

What St. Paul citizens did THEN, Minneapolis citizens can do NOW! What a Ramsey County special Grand Jury did THEN, a Hennepin County special Grand Jury can do on this side of the river and do it better! Now, if you want a bit of history to repeat itself, just rap on the wall by reopening 208 11th avenue south and re-establishing the gang in power AND YOU WILL FIND THAT YOUR JEW'S

HARP ISN'T THE FULL ORCHESTRA YOU THOUGHT IT WAS! 607

I am talking to a larger audience now than in the last few issues, so it will do no harm to "shin back" over the history of 208 11th avenue south for a few paragraphs.

It was the former home of the gambling syndicate, and that syndicate was composed of J. D. Bevans and Ed Morgan, editors and owners of the Twin City Reporter, and "Red" Clare and others. But the chief owners, the promoters of the syndicate, were these rascals.

It was at 208 11th avenue south that a young man em- 608
ployed in the First National Bank of this city was ruined. The young man had the absolute confidence of his employers. He was highly respected. And then one day it was discovered that he was an embezzler—a thief—and that he had lost thousands of the bank's money AT THE CROOKED CRAP GAME RUNNING AT THE 208 11th avenue south address AND FRANK BRUNSKILL, CHIEF OF POLICE, AND CHARLES G. DAVIS OF THE LAW ENFORCEMENT LEAGUE KNEW THAT DEN OF INFAMY WAS RUNNING WIDE OPEN!

Will Frank Brunskill or Charles G. Davis deny this? 609
They will NOT.

Are they going to allow that hell-hole to reopen? They think, and I am half inclined to think they are right, that the business men and bankers and church people who sit back and sigh that "conditions are terrible, but—" will continue to sit back and sigh and "but," and let them open.

But they will NOT open, despite this timidity, for the Saturday Press IS ON THE JOB—BRUNSKILL HASN'T GOT IT LICKED YET! And, friends, 208 11th avenue south—that vile den in which many a boy went wrong,

610 SHALL NOT OPEN, Brunskill or no Brunskill; Morgan or no Morgan, gang or no gang.

The Saturday Press is the only paper in the city that dares defy Frank Brunskill and the rat gang that PUT HIM IN OFFICE AND KEEPS HIM THERE and whether YOU give it YOUR material support or wag your head dolefully —whether YOU back it or buck it—IT'S GOING TO MOP-UP ON COMMERCIALIZED GAMBLING IN MINNEAPOLIS OR BOTH ITS EDITORS WILL GO DOWN AS ONE HAS ALREADY GONE—under a hail of lead from the deadly guns of gangland. We're not bluffing—we mean
611 everydam word of it.

When a gang of gunmen, KILLERS, extortionists and tin-horn crooks backed by an ex-beerwagon-driver police chief, has the bronze to ATTEMPT to reopen a gambling den in the face of a Grand Jury investigation IT'S TIME SOMEONE CALLED A HALT, isn't it? Well, here's the halt—right here. Two hundred and eight, Eleventh avenue south, SHALL NOT OPEN! And that's final.

Another enemy or two on my neck (I am forced to use the pronoun "I" because Mr. Guilford was cut out of the picture
612 by a Mose Barnett gunman's bullet FOR OUR FIRST DEFY OF THE GANG) doesn't matter, so:

The date set for the "grand opening" of the joint is just three days before the next Grand Jury is supposed to convene and TOO LATE FOR ACTION by the present Grand Jury—THE FIRST GRAND JURY FOR SEVERAL YEARS THAT HAS HAD THE COURAGE AND THE OPPORTUNITY TO DELVE INTO THINGS HERETOFORE HIDDEN.

The present Grand Jury was fortunate enough to have a Saturday Press battering at the bulwarks of vice. It was

fortunate enough to have one paper, which (though "un- 613
journalistic" and "unethical") had the courage to furnish them with FACTS upon which indictments of long-known criminals could be based. Information through usual channels was discarded largely and the present Grand Jury took the bits in its teeth, so to speak, and FORCED INDICTMENTS in spite of brazen attempts to hamper it.

If it is to the best interests of this city that Frank Brunskill be accorded the same "courtesy" as a special Ramsey County Grand Jury extended the former chief of police of St. Paul, then pass out the courtesy! He has proven him- 614
self to be inefficient, a bungling dolt, a cuddler of criminals and a violator of law. This paper charged in its last issue that Frank Brunskill accepted THROUGH MOSE BARNETT, gangster and known crook and criminal TWO HUNDRED DOLLARS FROM AN UNDERWORLD CHARACTER.

For that act alone, he should be removed from office and he would be if he were not protected from a source higher up and he should be IN SPITE OF THAT "PROTECTION." And he will be IF WE HAVE TO GO OVER THAT PRO- 615
TECTION AND HAVE CALLED A SPECIAL GRAND JURY AND A SPECIAL PROSECUTOR. I say this in no spirit of criticism of the present Grand Jury. It has done well. It would do MORE if the time for its retirement were not so close at hand.

Before I close, I want to call attention to another trifle that goes to help tighten the clinch on Brunskill's affiliation with the underworld of this city:

When Mose Barnett was operating a joint near the Metropolitan theater, his joint was the hangout for every class of petty and "grand" criminals. The entire detective force

616 were wont to "make" Mose's place as soon as they received a tip that a "wanted" crook was in the city. If he was in town he was sure to be found at Mose Barnett's joint.

One morning Brunskill lined the detective force up against the wall and warned them that BUT TWO DETECTIVES FROM THAT DATE ON WOULD BE PERMITTED TO ENTER MOSE BARNETT'S DEN!

In brief, HE DIDN'T WANT MOSE PESTERED BY HAVING HIS CRIMINAL CLIENTELE PICKED UP BY THE POLICE DEPARTMENT!

617 He has shown the same solicitation for that greasy Jew crook in the present crisis that he showed when Mose was "working" independently of the Morgan-Bevans gang.

And this, then, is the type of man who has been called by his cohorts, "the best chief of police Minneapolis ever had," eh? Bah!

Let a special or the present Grand Jury quiz Frank Brunskill as to the source of his expenditures and watch Brunskill shrivel up. He has drawn down the salary of a police chief for approximately four years and:

618 How many of you four to five thousand per year men are purchasing 20 thousand dollar homes with furnishings said to more than equal the total cost of the real estate? Not many. Especially if you have only had that salary connection for three or four years.

Brunskill's reputation as a "saver of coin" reminds me of a United States Senator who, during an investigation of the prohibition department in an Eastern division, dryly remarked that a prohibition agent was the only financier he knew of who could take a hundred dollar per month salary and buy Fifth avenue property within six months!

But be that as it may, the fact remains that 208 11th ave.

nue south is NOT going to open up on November 2nd, this 619
year or next. The Mose Barnett gang are DONE.

The citizens of this village have purchased all the trotting stock for Ed Morgan; all the suburban property for J. D. Bevans; all the diamonds and gee-gaws for Mose Barnett and the balance of that gang, together with valuable homes for Brunskill, they will ever be called upon to purchase WITH THE CONSENT OF THIS PAPER. These parasites have lived off the taxpayers of Minneapolis too long as it is. But they sure cling tight! And they have the gall of highwaymen—note their brazen attempt to reopen 208 11th avenue south IN THE FACE OF A HOSTILE GRAND 620
JURY and within three days of the convening of the incoming G. J. If you timid citizens can beat that for gall, try to do it!

The Journal again makes a "discovery" and this time it has "discovered" that Mose Barnett, yellow gangster, has "extensive properties in the city." Barnett's official fixer quotes the duck hunter differently. He, the middleman, informed me that Mose had disposed of his "extensive properties in the city" in brief and to-wit: One block of confidence 621
in a "weak sister"; one ham cavern located at 820 Hennepin avenue; several shares of bunc distributed among the gang; one adult aversion to the Stillwater climate and a few odds and ends consisting of crooked dice, a sucker list and other items too numerous to mention. Mose retained his seven league boots.

Do any of you old timers recall the outburst of former Mayor Nye when he took our present chief for a dry-cleaning through the daily press? Nye sure dusted off the ex-

622 beer-wagon first mate to the queen's taste, alright. If Nye wasn't familiar with his garlic, he sure saveyed the Brunskill person.

GANG THREATENS AGED MINISTER

A Local Minister Visits Twin City Reporter Office and Is Threatened by Gun-Twirlers, One of Whom Admits He Is Editor of That Rag; Will Chief Brunskill Order the Arrest of the Gunman? Nixie!

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623 It is fitting at this time, that additional light be thrown on the Twin City Reporter gang of cowardly jackals and the high-handed manner in which they have conducted themselves and that sheet.

A few days after the publication of the story against the character of a dead man, Rev. K. B. Birkeland, an old man, a minister in one of the city's churches and a close personal friend of the Rev. Birkeland, took it upon himself to call at the Twin City Reporter office and explain to that gang of ruffians, the bitter injustice of their attack.

624 The old gentleman little knew the type of men, or things, composing that soulless crew. He felt certain they had published the vile canard purely because they had been misinformed. He hoped they would be fair enough to his dead friend, to right, so far as it could be righted, the wrong they had done. So, one afternoon he went to the Reporter "editorial rooms" and asked to see the editor.

He was informed that the editor (he couldn't write the details of a dog fight!) could not be seen until five o'clock that evening. At the appointed time he called again. As he mounted the stairs he was met by three burly ruffians who

demanded the object of his visit. He explained courteously, 625
that he wished to speak to the editor in person.

"Well, you tell US what you want," was the growling demand. Upon his reiteration that his business was with the editor and no one else, he was told that his visit was fruitless as that individual could not see him. Balked, he turned to retrace his steps. He had gotten about half way down the stairs when the three made a rush at him—one stepping in front and the other two at each side.

Before he could realize what had happened, his arms were seized by the two "strong-arm" gents while the fellow in 626
front SEARCHED HIM AS THOUGH HE WERE A CRIMINAL!

Finding the old gentlemen unarmed, they told him to retrace his steps and enter the Reporter office. Escorted by the three, he was ushered into Ed Morgan's den, the trio still at his side.

As he stood bewildered, one of them rudely shoved him into a chair with the curt, "Sit down here," at the same time DRAWING A BRACE OF AUTOMATIC PISTOLS FROM HIS POCKETS, which he flourished in true "wild west" 627
style.

Picture that scene if you can.

A man whose hair was bleached by sixty-five winters; a man the physical inferior of any one of the three gunmen; a man who had come on a peaceful mission THREATENED, ASSAULTED by armed ruffians in the office of an alleged "newspaper"!

How many "newspaper" offices in this country interrogate their visitors from behind automatic pistols?

The old man's eyes narrowed. No fear there, just angry surprise. He looked steadily at the big brute twirling his

628 guns. Then the latter spoke: "What do you want up here?"

"I came up here to talk with the editor of the Twin City Reporter," came the even reply, "and I would like to meet him. Are you the editor?" And the man with the wild west complex snarled, "I am the editor, now what do you want?"

The editorial "masthead" of the Twin City Reporter asserts that Edward J. Morgan is both editor and publisher of that paper. WILL CHIEF OF POLICE FRANK BRUNSKILL INVESTIGATE THIS STORY OF AN ASSAULT BY EDWARD J. MORGAN and, when proof positive is furnished him, will he order the arrest of Edward J. Morgan,
629 editor and publisher of the Twin City Reporter, for assaulting an aged minister? He will not. HE DOESN'T DARE.

He, Chief Brunskill, hasn't the courage to arrest Ed Morgan, but he uncorks a terrible rage at this publication WHEN IT EXPOSES THE CONDITIONS FOSTERED AND PROTECTED BY THE TWIN CITY REPORTER.

Can it be that Ed Morgan "has the goods on" the chief? Is it possible that in return for immunity granted the gangster and gunman, Ed Morgan, through the Twin City Reporter, PROTECTS BRUNSKILL? From what? Your
630 guess is as good as mine, but WATER ALWAYS FINDS ITS LEVEL!

Ed Morgan is one of a gang of gunmen and gangsters that have infested this city, DURING FRANK BRUNSKILL'S REIGN AS CHIEF OF POLICE. Ed Morgan is one of the known proprietors of the PROTECTED gambling syndicate that operated at 818 Hennepin avenue until the Saturday Press smoked them out. Ed Morgan was a constant visitor to Chief Brunskill's office—and he may be yet, but if so he sneaks in and has lost his swagger SINCE THE SATURDAY PRESS APPEARED ON THE SCENE! Ed Morgan

is a "business partner" of Jack Bevans, "Red" Clare and Mose Barnett, the coterie who operated the gambling joint and the moment this paper attacked the gangsters and gambling syndicate, CHIEF BRUNSKILL BEGAN HIS ATTACK ON THIS PAPER and by that one act, Frank Brunskill PROVED himself in collusion with the scum of the underworld. Now sneeze that one away, chief! 631

The old minister is willing to testify to the facts as given above. Now watch Chief Brunskill do the "duck and dodge" once more or: Issue another edict against this paper.

632

"How's this?" asked the lawyer, "you've named six merchants in your will to be pallbearers. Wouldn't you rather choose some of your friends with whom you are on better terms?"

"No, judge, that's all right. Those fellows have carried me so long that they might as well finish the job."

JUST PHUNNY

Cop—who was driving when you hit that car? 633

Drunk (triumphantly)—None of us; we was all in th' back seat.

Father—You kept the car out rather late last night, son. What delayed you?

Son—Had a blowout, Dad.

Father—Huh! Tire or roadhouse?

Mac—Bill can't come. He's in the hospital. Someone stepped on his pipe during the game.

634 Belle—I don't see how that would make him have to go to the hospital.

Mae—It was his windpipe.

"How's the last batch of stuff you made?"

"The strongest I ever made; a silver dollar will float on top of it."

"That's a good test. I put a silver dollar in mine the other day to see if it would float, but before I could grab it, it had melted.

---

635 "Black Boy, how did you all get that soot on yonah coat?"

"That ain't soot, Carbona, that's dandruff."

"Mary has the grippe."

"You don't say! Did she get the password?"

If she seems cold at first, brace up. Chills are often followed by fever.

"Johnny, stop poking little Edward!"

636 "I ain't pokin' him, Ma. I'm countin' his measles."

Asinine Annie opines that "bacteria" must be the rear entrance of "cafeteria."

"What is worse than a shark with halitosis?"

"A centipede with ingrown toenails."

Modern medical science is wonderful. When a man has a pain in his heel, the doctors first remove his tonsils, then his teeth, and then his shoe.

First Prof.—It's strange how many college students are committing suicide. They all seem to shoot themselves in the chest. 637

Second Prof.—That's all that's necessary. They're all dead from the neck up, anyway.

CLINCHING A SUSPICION

It is high time something was done to save the city from gaining the reputation of a village.

Lately the police department and its superintendent have been held up to ridicule when they haven't deserved it. The people of Minneapolis know better, but still they are willing to listen to ridiculous charges and, sad to say, believe them. 638

An officer of a law enforcement association, supported by our best business men and men who are known to have much civic pride, practically has been charged with dishonesty and those who know of the work he has done know he doesn't deserve this kind of treatment. These charges are a reflection on the good judgment of the business men of the city in placing such a man in the position he holds.

The intelligent people will ignore such charges, but even those regarded as intelligent will believe outlandish tales. 639

Visitors to Minneapolis are startled by the absence of "night life" in the city. One man was heard to remark on his visit here, "Why, you could shoot a battery of field guns up your main street and never hit a soul after 11 o'clock."

The police department, if it functions as efficiently the remainder of the year, will establish another record for keeping down crime. Very little crime has been committed in Minneapolis to date. True, there have been holdups, but the records show that since the first of the year about 60 holdup

640 men have been arrested and practically every one of them have confessed to one or more "stickups." The surprising part of the many arrests for this sort of crime is that nearly every footpad turned out to be a local hoodlum, a young man born and reared in the city. All of which gives the lie to the charge that no one is ever arrested and that the city is overrun by out-of-town gunmen.

Let's forget the small town ideas and get a little fire into the veins of Minneapolis. We need it. It would indeed be terrible if we had the same situation existing in this city they have in other towns of our population.

641 We wonder what the good people of the city would do then.

The above, I clip from the editorial page of the Twin City Reporter. It is a remarkable admission that the scandal sheet, the tool with which the Bevans-Morgan-Barnett gang have entrenched themselves in this city, has the sanction of the Chief.

Read it again—it is worth the effort.

It shields names but portrays individuals so distinctly that event the sightless can read as they run.

642 Think of it! Not a single paper in the city, not even the cowardly daily press, dares come out openly and offer a defense of Frank Brunskill or Charles G. Davis, head of the Hennepin County Law Enforcement League—yet the vilest rag published in the Northwest rushes to their defense!

A gentleman long deceased, who did more to "make America dyspeptic" than any other one man, had as his slogan, "There's a Reason" and there is.

The Morgan-Bevans-Barnett gang owned and operated the gambling syndicate—WERE the gambling syndicate—and both Chief Brunskill and Charles G. Davis knew, not guessed

at, but KNEW, that the syndicate existed, that it operated with police protection—for insofar as the law was concerned THEY WERE THE LAW. 643

The "footpads" who have "turned out to be local hoodlums" were boys in the employ of Mose Barnett and his fellow gangsters named above. They were local youths, to be sure, but they were the finished product of the system inaugurated by the Twin City Reporter, the Barnett type and the Brunskill color.

It doesn't matter, it is beside the point, that killers are locally bred. The matter is that they EXIST—that their creation is a matter of fact and not one of theory. Geography 644 has no bearing on the case whatever. They operated here and under police protection—and the Twin City Reporter has the brazen effrontery to rush to the defense of the two (just for this issue, only) men who shielded them and their criminal acts.

"The reputation of a village!" croaks the carrion buzzard. That's good.

If anything more were needed to clinch the suspicion that the chief of police, as well as Charles G. Davis of the Law Enforcement (?) League and the gangsters are welded together in a common bond, the "editorial" in the Twin City 645 Reporter has supplied the clinch.

MAKING CRIMINALS

The Journal, a few days ago, editorials lengthily anent our criminal laws and suggests that the Baumes law is quite the thing, doncherno.

But the Journal deftly forgets that criminals CAUGHT are few while criminals MADE are plenty. The Journal and the Tribune, both create more criminals than are punished

646 and they do it with the use of the same tactics they are employing today:

By "covering up" FACTS; by distorting the TRUTH; by withholding names; by deliberate falsehood.

Take the Shapiro case as an example.

Both these publications knew that the assault upon Shapiro had been committed, they knew his business had been temporarily ruined, that gangsters had assaulted other men engaged in the same business as Mr. Shapiro, and yet they made no demand that these outrages cease. Instead they groveled at the feet of a weakling police chief and lied like
647 Hessians of the "purity" of our city.

When gunmen tried to murder Howard A. Guilford, the Tribune let out one faint editorial yelp and then sunk back into a silence that could be stirred with a stick, while the Journal shadow boxed and skipped the rope with a journalistic dexterity marvelous to behold. But it said nothing.

When the Grand Jury returned an indictment against the king of local gangsters, Mose Barnett, the Journal did the best it could to mislead its readers and cover the trail of the gangster. Yet a few days later it bawls lustily of the neces-
648 sity of more law, more punishment and more blah.

Journalism today isn't prostituted so much as it is senile. It is disgustingly flabby. It has no principle no object except to create dividends. If the Journal would discard "Andy Gump" and "Walt" from its pages, its circulation would show quick indications of a collapse. People secure the Journal principally because they want to get two laughs —one from "Gump" and a hearty bedtime chuckle from its editorial page.

"Just remember that every man in the bureau from now on

is detailed on bomb cases. Now get out and work," snarled Brunskill to the MEN of the detective bureau. Steady there, Frankie, old wolverine! You know and the MEN know that if they left the trail of a traffic violator long enough to grab off a bomb tosser, you would pitch a conniption fit all over the office. Instead of "detailed" Frank meant "demoted." Funny how he gets his words all tangled up with his feet, isn't it? 649

Another issue of the "Minnesota Leader" came to our desk the other day. Exactly what in Minnesota it "leads" is a puzzle. Schall has acquired a German daschund to lead him, Mahoney never led anything except a pap basket and Davis —well, Davis isn't halter-broke, that's all. 650

Them fellers ain't goin' to get nobody to do nothin' for them as haven't done nothin' for nobody, if you get what I mean. They are blanks. Cyphers devoid of rims.

So our friend Tom Davis is going to make the senatorial race on a "wet" platform, eh? Well, with Tom Schall as a "drag anchor" Davis wouldn't get far enough from shore to get his feet wet. 651

THE SATURDAY PRESS
A WEEKLY "WHOS, WHO AND WHY"
The Northwest's Snappiest Newspaper
Business Office, 240 S. Fourth Street
Two Dollars per Year in Advance
On Sale on News Stands, Everywhere, Every Friday
OUR MOTTO:
Laugh and the World Laughs With You
Grouch, and You Grouch Alone.

652 HOWARD A. GUILFORD
J. M. NEAR (The Old Man)
Editors and Owners

A First Class paper, mailable everywhere but not entered as Second Class Matter anywhere.

Dealers and Subscription Agents wanted. Liberal Commissions.

WILL BRUNSKILL ANSWER?

There are a few questions Chief of Police Frank W. Brun-
653 skill might like to answer or, to put it differently, the taxpayers of this city would like to have him answer. Perhaps the latter is the better way. At any rate:

How does Mr. Frank W. Brunskill manage to save enough from his salary in four years as chief of police to purchase a 20 odd thousand dollar home in the Lake Harriet district and furnish it at a cost said to exceed the property value?

Did he pay for it out of his salary?

What percentage of his salary does he invest in real estate?

How many thousands annually does he bank?

How did he happen to be appointed chief? Upon whose
654 endorsement?

How many relatives has he placed on the Minneapolis payroll?

Why did he do nothing toward the apprehension of the Shapiro assailants until the Saturday Press published Shapiro's version of the crime?

What has he done toward solving the "mystery" of the shooting of Howard A. Guilford?

Did he know that 208 11th avenue south was being operated as a gambling joint for four years?

Did he know that at 818 Hennepin avenue Mose Bar-

nett, Ed Morgan, "Red" Clare and J. D. Bevans were operating a gambling joint? 655

If he didn't know, WHY DIDN'T HE?

Did he know the Twin City Reporter editor is and has been for some time, under indictment for extortion? Why did he not suppress the street sale of that publication until AFTER the Saturday Press launched its attack on the gambling syndicate and the Twin City Reporter?

Why did he attempt to suppress the Saturday Press BEFORE it mentioned his name or his department or before the first issue was out of the print shop?

WHAT CONNECTION WITH THE UNDERWORLD 656
HAS CHIEF OF POLICE FRANK BRUNSKILL?

Can he make oath that he has never received cash or gifts from gamblers and underworld characters?

HAS HE HONESTLY ATTEMPTED TO BRING CRIMINALS TO JUSTICE?

Has he kept his official life clean of "entangling alliances" with the underworld?

What attempt did he make toward solving the "Benny" Kaufman diamond robbery?

What about the robbery of the Oriental Rug Company 657
when some 26 thousand dollars' worth of rugs were stolen?

Who said: "Just as sure as I am sitting here, I know the truck that was used to move your rugs and the man who drove the truck, but I cannot get it?"

WHY?

Has he:

But why prolong the agony?

If Mr. Brunskill wishes to answer any or all of these questions, he is welcome to an entire page in this paper in which to do so and he will be treated with the courtesy to which he is entitled.

NONCOMBATANT SKEPTICS

658 And thus spake a man from the business world: "We are not quite sure where you stand. We are skeptical."

What he meant and what he was too courteous to say bluntly was that his fellows were fearful of contamination IF they offered even the nonsustaining ether called "moral support" to this paper.

I wonder what these same cautious folk would do if their house was on fire? Would they require every fireman who attempted to quench the blaze to furnish a blueprint of his past, his pedigree and his posterity?

659 Suppose that among those firemen there were two who didn't measure up to their standard, or rather the standard they had established for others to measure up to. Would they demand that the unstandardized ones should quit their posts and let the flames roar on?

The argument that we two men, Mr. Guilford and the "Old Man," are of no social standing, is piffle, a shadow camouflage to shield timidity. We have been, in years gone, editors of the Twin City Reporter, but are we to be eternally damned because, YEARS AGO, we commercialized the

660 frailty of our fellows?

Let skeptics sneer, let the timid quiver in fright, but we two "lost sheep" are going to do OUR part in extinguishing the flames that are destroying YOUR home and if you can't assist us until you have seen our "spotless record," we'll either have the flames subdued or you'll be out on the curbs —with a gangster ruling your few belongings.

The chief, to make sure "his men" were properly humiliated, waited until an audience of newspapermen were on hand and then spewed his venom on the MEN of that department.

And our dear old Tribune, so silent when it comes to scorching gangland with the white light of publicity, afraid to arouse the ire of Mose Barnett's gang of gunmen, chortles with glee over the chief's brutal abuse of "his men!" What a wonderful thing "ethical journalism" actually—isn't. 661

Speaking of that type of journalism, one of the real "ethical" brethren of the newspaper fraternity blandly informed me some weeks back that several of the scribes were being "pensioned" by Ed Morgan to the extent of fifty dollars per month per scribe FOR IGNORING "KICKS" that came in against the gambling syndicate. Do you wonder that I am all to the blooey with the snuspaper boys? Here I go and kick their petty bean bucket into a cocked hat and then expect them to gurgle with joy at every appearance of the Saturday Press? I don't. But I wonder when I read the garbled accounts in publications they represent HOW MANY UNKNOWN BUCKETS OF BOSTONS DID I UPSET AND DIDN'T KNOW IT? 662

Possibly the reason so many people have lost faith in former grand juries is that they didn't know—the daily papers didn't tell them—how the "regular channels" were clogged up. The Saturday Press has kicked a lot of that "cloggage" loose—a lot of it. And there's a whole lot more that is due to drift loose, p. d. q. The present G. J. has been shown the light—to the consternation of many hail fellows well met and a few who are just fellows hailed—best from a distance. 663

A gentleman informed me the other day that I was "making a mistake" when I criticized Charles Gee Davis in these

664 columns. I hope I am but the evidence all points the other way.

And lest I be accused of deliberately ignoring him, I repeat that in my humble opinion Chawles Gee Davis is the most expensive luxury ever indulged in by business men and the business men of this city are paying Davis' salary.

Don't forget that Brunskill's illegal order banning the Saturday Press from news stands, both inside and out, doesn't apply to our office. This is one place in the city where the Brunskill ban don't apply. You can purchase one copy or a
665 thousand at this office:

240 South Fourth Street.

And even the Daily Star offers a smothered excuse for Brunskill's senseless criticism of the detective bureau! Can it be that the introduction of Journal blood into its editorial veins has caused it to, to become cockeyed?

And Mose said he was an "invalid relative"—with Mose doing the hotfoot after "ducks!" That's rich.

666

To the Public:

It has come to my attention that a young fellow representing himself as being some part of an "Advertising Company," has been soliciting funds from business and professional men throughout the city, for the ostensible purpose of "paying the Saturday Press' printing bills." That fellow is an imposter and you will confer a favor on us by kicking him downstairs or calling the Sheriff's office—preferably the latter.

—The Old Man.

AND THE BURRO BRAYS!

667

That violent rattle heard by the citizens of this quiet village the other day was not an eruption of subterranean gases, it was simply Frank Brunskill letting the wind off his chest at the men on the detective bureau.

Ever since the Saturday Press refused to climb off the planet at Chief Brunskill's command, he has been about as jovial as a tarantula with its feet hung up on a sheet of fly paper. Never noted for his bubbling good nature, the chief simply blew up when we sassed him back and invited him to go rush himself around the block for mental exercise. And when we twisted the proboscis of his pet gang he frothed 668
at the necktie and let his ears sag.

So constituted and embroiled that he dared not roar back at us, he, like the intellectual shrimp that he is, vented his spite on his subordinates—the MEN of the detective bureau. Why, the fellows Brunskill "bawled out" through the daily papers have forgotten more about police and detective work than that ex-beer-wagon pilot ever knew!

He hasn't graduated from the "youse" and "ain't" class yet. True, he took a correspondence course or a "coarse" of some sort, while visiting the Windy City one time—some 669
sort of a mental adjustment that enabled him to gargle the English language from a platform or forum without throwing his audience into hysterics, but when a chief of police issues free tickets to a baseball game and tells (with his pen) the gatekeeper to "admit tow," when he meant twice ONE—well, that individual should think long and lustily before he administers a verbal chastisement to a crowd of men as intelligent as the Minneapolis detective bureau.

The Chief is one of those daring mortals who belong in the "I seen my duty and done it" class.

670 If the chief would use his head more and his jaw less, the city would be much better off. He should take a complete course in mental gymnastics and another double-run of "How to Operate a Police Department" from any rookie on the force.

The trouble with Brunskill is that he doesn't know enough to know that he doesn't know anything. There are fools, you know, who are wise enough to recognize their delinquency and with sense enough to acknowledge it and there are others who don't know the depths of their own vacuum.

671 They are physically fit from their upper teeth down, but from eye tooth to hat crown they are minus.

If Frank ever shakes himself loose from the police chief's salary, he can head straight for any circus with the assurance that a clown can secure employment when a college professor has to buck the bread-line.

The Tribune giggled itself silly over Frank's outburst. It chortled through almost a column of its "valuable" space. It declares the chief informed the MEN of the detective bureau, among a lot of other things:

672 "You may not realize it, but I know what is going on around here so far as work is concerned."

Attaboy! Sic 'em! If they talk back, can 'em. Snap them away from their porkchops and java. Bawl 'em now —from behind a gold star, but shed that protection ten minutes and then try the verbal lash. Only a coward will publicly abuse men over whom he has absolute authority.

If the chief had talked half as rough to the gangsters and gunmen who were early morning, mid-day and afternoon callers at his office, Minneapolis would not be infested with killers, thugs, thieves and cut-throats as it is today. The "Hello, boys!" stuff was scattered with reckless abandon

over gangsters while the abuse was reserved for and heaped on the undeserving heads of men whose lips were sealed by law. 673

"I have in my hand a report," snarled the ex-beerwagon skipper, "on a bombing that took place two weeks ago." That's nothing, Frank. Why, you have been getting reports of YOUR inefficiency, asininity and boneheadedness THROUGH THE COLUMNS OF THIS PAPER for the last FOUR weeks and you haven't snapped out of your trance yet!

I cracked a report right on your desk four weeks ago and you haven't acted on it yet—except to make it as tough as possible for me. You're a fine specimen to chatter about "reports" only two weeks old! Why, you dear old leather-head, are you mentally capable of telling the age of a report by looking at the date or do you frisk its molars for signs of age? 674

Folks, your chief rages at MEN over whom he has control, and charges them with inefficiency and "stalling." Why, there isn't a man in the department who doesn't forget more every morning before breakfast than Chief Brunskill ever knew—or will know if he lives to beat old Methusela's record! He's one of those canaries who chirp but never ring a clear note. 675

He's known as a liar and a shifter from one end of his department to the other. His men, "his men"—I apologize to them for being forced to so designate them—never know one minute what will happen next!

If one of them reports for work, wearing a blue necktie and the chief has a dark brown taste in his mouth that morning, blue is all to the "Dutch" that day and the sky-colored four-in-hand's owner is quite apt to be demoted or

676 shifted out into the tall sticks.

Not a man on the force that dare follow instructions more than half way round a block. If he does, he is almost sure to find a new set of orders staring him in the face when he completes the circuit! The Tribune must be hard up for "fillers" when it will gush over such junk as the following blah from Brunskill's tirade:

"I am here to protect the lives and property of the people of Minneapolis, and I'll do everything I can to make good the oath I took."

Howly Jazus! If that man Brunskill was broken in two
677 pieces and I wanted the biggest chunk, I'D TAKE HIS GALL!

He has done nothing whatever since he oozed out of the County Attorney's office into his present position, to show that he ever took an oath to protect anything EXCEPT THE GAMBLING SYNDICATE AND THE TWIN CITY REPORTER!

There hasn't been a single major robbery SOLVED since Brunskill became chief of police. He's kept the department in a turmoil ever since he took command. There aren't ten
678 men on the uniformed or detective force who have the slightest respect for him. Of course they swear they have, but who wouldn't if placed in their sandals?

Brunskill thought he was pulling a cute one when he inquired of his silent-lipped (but boiling internally) detective force if they "wanted someone to place a bomb under the courthouse and blow you out of your chairs and the telephone booths around here before you realize that we are having trouble?"

Quite a wise-acre, eh?

For the men who couldn't answer, I reply that:

There was no bombing around Minneapolis UNTIL FRANK BRUNSKILL STARTED PLAYING "HELLO BOYS" WITH GANGSTERS AND MOSE BARNETT'S GUNMEN. And, had Frank Brunskill stuck to the beer-wagon MINNEAPOLIS WOULD HAVE BEEN BETTER OFF! 679

No bombs are going to be placed under the courthouse, Frankie knows that, because he knows the GANG LOVES ITS FRIEND TOO WELL. The only thing that "busts" around there that makes Frank fretful is the Saturday Press and that tickles him exactly as though he were sitting on a nest of hornets. 680

What Minneapolis really NEEDS is a Grand Jury that will jerk Brunskill out from under his tam-o'-shanter and deposit him in the "has been" class.

If the present Grand Jury doesn't do it, I guess we will have to call for one that will.

What with big diamond robberies "unsolved"; with rug robberies also "unsolved"; with murders "unsolved"; with assaults galore, "unsolved," it's about time we changed chiefs. Your hat's on the peg to your right, so close the door softly, Francis, as you leave. Thank you! 681

One of the daily papers recently stated that "Barnett shot Rogers down in a loop 'hunting trip,'" but as per usual it was wrong.

Barnett shot Roy Rogers from a "blind" just as the duck hunter slaughters the feathered "knights of the air." That Jew braggart never had the courage to face anything that could look him in the eye. He never gave Rogers a chance, but hid between two parked autos and as Rogers came along, unsuspecting, shot him down—exactly as the killers shot

682 down Howard A. Guilford. Will you "ethical journalists" please make an attempt to locate the truth just once? Thanks, awfully. So sweet of you.

Let's see. What was the name of the family Mose Barnett presented with three hundred and seventy-five dollars' worth of silverware last Christmas? Ah, yes! Thanks awfully.

THANKSH!

683 Dear Henry:

Please accept my profound thanks for your gift—the quart of White Horse Scotch. It is raining and I am sipping it as I write. In fact, I have had four drinks of the "old smoke."

I've been used to drinking such bad stuff that this doesn't have any effect on me. You see, I've been used to drinking such bad stuff that this doesn't have any effect on me.

I'm not bragging, bragging, but I produced more business than any ten men last year, year, with no gingerale, please, and this goes to show what hard work.

Well, I'll let you in on a little secret. I'm goig tobe tobe
684 maried sweetest gir girl girl inall the wide wide worls worls, we aretto maryin april or aroun the first junexx howabout you xxwq ghty bestqqpdfgh grooms men xh hjkfhgg.

Well, i trewq zz bbhuiop poiuty thdddwess cybnxm xertiuy ssff gmqert oklllh...??? lll 56$% ((())) xxtrew & % ***.

sin$ley&$ Oxkkar.

—Judge.

Motor Cop (sarcastically)—Pardon me, Miss, I just stopped you to get your number.

Girl in Roadster—You state men sure work fast. I just gave it to a chap twenty miles down the road, but in case he didn't give it to you it's Tucker 3947. 685

"I am a man of few words," announced the driller to the new roughneck. "If I beckon with my finger, that means 'Come.'"

"Suits me," replied the man cheerfully. "I'm a man of few words, too. If I shake my head, that means, 'I ain't comin'.'"

"Now laugh that off," said the wife as she wired a button on the fat man's vest. 686

EXHIBIT 7.

THE SATURDAY PRESS

Minneapolis, Minn., Nov. 5, 1927

Vol. 1, No. 7 Price 5 Cents

THE MAKING OF A "NOTORIOUS GUNMAN"

The Story of a Farmer Boy, Turned "Gunman"; Hounded by Hessians of the Law; Riddled by Lead From Gangster's Guns; Shot Down by Mose Barnett; Persecuted by Chief Brunskill and the Cowardly Daily Press; and, Now Charged With a Crime of Which He Is Innocent; and They Call This "Justice!" 687

You have read many thrilling fables in the daily papers of this city about a "notorious gunman" and it's about time someone told you the fiendishly brutal process used to give that man his undeserved title.

688 I want you to go back with me to the old farm—not too far back and not so far away from this city. I want you to sit in the shade with me and watch a little red-headed "shaver" at his play. And then we'll let our eyes follow him down the road to school—splashing his bare feet in the mud puddles—kicking up clouds of dust or playing hookey when the fish were biting good. Just a farmer boy—like myself; like so many other gray-haired fossils—like myself.

And then one day he came to the city. Gosh! It was a whopper of a town! The boy's blue eyes took it all in and he ran his fingers through his towsled red hair and "bored in."
689 Irish and proud of it—that farmer boy. Willing to fight when need be. Loyal to his friends and fair to his foes. And in a small way he prospered.

He wasn't a "gunman" then—just a two-fisted fighter when occasion required—clean and sturdy and fair. An average American boy. An average farmer boy. He wanted a chance, that was all. Didn't you, when YOU first came to the city? Didn't YOU, when you left the farm? Sure you did.

This boy bucked the tide, grinned when it hurt; smiled
690 when the tide swept him off his feet, but always he kept boring in.

In those hectic days of the Van Lear administration Roy Rogers made the "mistake" of championing the cause of Van Lear.

Convinced that "Van" was right, he smiled when threatened and bored in. The war came on and a lot of jaw-warriors conceived the brilliant idea of ousting the mayor. Rogers stuck to his guns. It was inevitable that he acquire additional enemies by this course and he did. But the smile was there though his lips shut tighter over it. A few

enemies, more or less, didn't matter. And then one day the 691
word flashed over the "grape-vine wire" that thugs were to rush the city. Crime was to rage rampant. Banks were to be blown and homes burglarized—all in an effort to discredit Van Lear's administration.

A friend of the administration (not an official) went to Rogers and explained the infernal plan. Would Rogers undertake to ward off the blow?

Rogers was Irish.

What a glorious opportunity for a fight! And in a worthy cause. When the first consignment of gunmen arrived in the city, Rogers met them—with a smile. 692

There were no threats. The "tough eggs" took one look into Rogers' blue Irish eyes and the next train outbound. There was no invasion of criminals.

Rogers owned the Revere hotel at that time. The swivel-chair patriots set out to "get" him. His place was raided, he was arrested and for a "crime" that would have ordinarily brought him down for a nominal fine, Rogers was sentenced to prison.

The smile was bitter now. And the blue eyes didn't have that merry twinkle. They were a bit steely. THEY WERE 693
BREAKING THE FARMER BOY ON THE WHEEL OF HATE!

Vainly he fought to keep his feet. He had a right to fight—you have, every man has. Don't blah at me about what the "law" could have done for him. IT WAS "LAW" THAT JOINED HANDS WITH GANGLAND EVENTUALLY, TO BREAK ROY ROGERS.

Every move he made was heralded by the daily papers of this town and always they referred to him as "Roy Rogers, notorious gunman." They never gave him a chance, these

694 journalistic jabberwocks.

They lied about him, they wove fantastic stories of his prowess with a gun, but let me tell you now that Roy Rogers has not only been more sinned against than sinning, but he has been shot more times than he ever fired at an enemy. His "career" consisted chiefly of newspaper fables and a body riddled with bullets.

Forced out of the hotel game Rogers tried gambling a little. And he was square. But the "powers that be" didn't want square gamblers—they didn't want Rogers to stay on this planet!

695 The ending of the war brought about the most colossal overturning of an "existing order" since the chaotic days of Rome. There sprang up over night as it were, a strange race, a set of murderous ruffians, and these were not confined to the civilian classes. Rascals developed on police forces, in administrative departments—everywhere.

Prohibition came and with it a still more determined class of law-breakers and steel-nerved men. There were vast fortunes to be made handling the contraband stuff. The profits were enormous and risks not great.

696 In this city as in all other cities, there grew up a "liquor ring." At first a few men controlled it. They were keen, calculating men. They had worked out the problem to a mathematical certainty. They made it a business.

Roy Rogers, denied his inalienable right to live "straight," to stay in legitimate business or even engage in square gambling, turned to the illicit liquor game.

I know of a lot of laws that punish a man for stealing rather than starving; but I know of no law that compels the feeding of a starving man! There are laws galore that define the business a man may engage in and remain outside

the criminal class, but I know of no law that protects him 697
in that legitimate business to the extent that it shall remain his as long as he operates it legitimately. Do you?

But a new element had developed in this city. A Jew of the lower class, had set himself as "over-lord," as chief gunman—Mose Barnett, "Big Moe."

Rogers clashed with the chief of the bootleggers—Barnett.

The latter was "friendly" to our present chief of police. If you don't believe this, please recall the avidity with which Herr Brunskill began his suppression of this publication just as soon as it exposed Barnett's activities and membership in the protected gambling syndicate! 698

One morning as Rogers lay asleep in his room, a gunman kicked in the door and fired—one shot. He didn't wait to fire the second but set a "precedent" for his chief, "Big Moe"—he fled, "took it on the lam." The bullet grazed Rogers' breast. I saw the livid trail it left.

Again Rogers was waylaid between this city and St. Paul. A hundred bullets struck his car, but a Fate, kinder than curs in human form, protected him—not a shot struck him.

One morning Rogers was called into Frank Brunskill's 699
office and informed that he would be shot by Mose Barnett if he remained in town and was advised to leave.

Now, just a moment before you explode.

The law is PRESUMED to protect every citizen. The law isn't presumed to protect bakers or butchers or physicians or bankers or truckmen, but ALL men.

The chief of police is PRESUMED to protect human life as well as gambling joints and lewd publications and their proprietors. And yet we find that Chief Brunskill advised Roy Rogers, a "daily-paper-made gunman," to leave the city

700 IF HE WISHED TO LIVE!

Let us admit for the moment, that our farmer boy had developed into an "underworld character." I grant it, but: He was entitled to the law's protection just the same!

Society and the daily papers, combined with dirty politics and politicians, never gave him a chance. And when he skipped death when a Barnett gunman's bullet plowed its hot way across his breast, he immediately became an object of fear and hatred to that fat Jew's person, following and friends. He was doomed. Don't tell me he wasn't. Don't kid yourself. Take your weather reports from your daily
701 paper if you wish, but don't let them make a fool out of you forever.

Our chief must have known that Mose Barnett had threatened Roy Rogers' life—he had admitted as much, and yet he made no move to arrest the chief gunman—Barnett.

Instead we find him ADVISING BARNETT'S INTENDED VICTIM TO LEAVE THE CITY or be shot down like a dog. Do you call that law-enforcement? Do you consider a man of that type and character to be "the best chief of police this city ever had?" Is he to sit in judgment on men
702 and decide who must live and who must die—who must flee or who will be shot?

Plainly Brunskill's DUTY was to arrest Mose Barnett FOR THREATENING THE LIFE OF A CITIZEN—but he didn't do it! Instead he calls that citizen into his office and warns him that he will be shot IF he remains in the city. And you call that "efficiency plus," do you? I have another name for it, and if you are honest with yourself, you have.

On that same evening, twelve hours after Frank Brunskill had informed Roy Rogers that Mose Barnett would

kill him if he didn't leave the city, Rogers sauntered carelessly up Hennepin avenue. He had a right on our streets, hadn't he? And he was unarmed. OUR CHIEF OF POLICE HAD INFORMED HIM SCARCE TWELVE HOURS BEFORE that he would be shot on sight by Mose Barnett, A MAN KNOWN BY CHIEF BRUNSKILL TO BE A GANGSTER, A GUNMAN, and yet he strolled "even as you and I" up one of our principal streets. 703

Near Sixth street and Hennepin, Mose Barnett, protected by a bullet-proof vest, was hidden between two parked cars and as Rogers came by less than ten feet away, Barnett fired.

The forty-five caliber bullet tore its way through Rogers' breast, puncturing both lungs and missing his heart by less than two inches. As his victim whirled half around and sunk slowly to the sidewalk, the killer, THE SAME BARNETT WHO FRANK BRUNSKILL RUSHED TO PROTECT WHEN THIS PUBLICATION EXPOSED HIM, fired again and again. Two of these bullets found their mark—one struck Rogers in the left arm and another in the thigh. And then Barnett walked to his own car which was standing nearby. 704

He went direct to police headquarters and reported to Brunskill. Within an hour he was free under the trifling bond of TWO THOUSAND DOLLARS. Think of it! 705

Brunskill, releasing a gunman who he, himself, had admitted a few hours before had sworn to kill his man. If Mose Barnett was not under the protecting wing of Chief Brunskill WHY DID THE LATTER PERMIT THE KILLER TO SECURE HIS RELEASE ON A PETTY BOND? He should have held the assassin WITHOUT BAIL until the extent of the victim's injuries had been ascertained. But he didn't. Mose Barnett was walking the

706 streets of Minneapolis BEFORE HIS VICTIM HAD BEEN TAKEN OFF THE OPERATING TABLE!

Rogers was taken to the General hospital. The next morning Frank Brunskill phoned the hospital at SEVEN O'CLOCK and inquired as to Rogers' condition. Upon being told that the victim could hardly recover, BRUNSKILL SNARLED, "REMOVE HIM TO THE ST. BARNABAS HOSPITAL AT ONCE."

His removal meant almost sure death and the surgeon in charge of the case protested against the brutal order. "Move him," came the snarl of Mose Barnett's friend, Chief Brun-
707 skill; AND THEY TOOK WHAT APPEARED TO BE A DYING MAN OUT OF THE GENERAL HOSPITAL ON CHIEF BRUNSKILL'S PERSONAL ORDER! If you can match that for brutality, try to.

Doubtless Brunskill hoped the removal of that bullet-torn body would finish the job Mose Barnett's gun had begun, but it didn't. Roy Rogers, with both lungs perforated, with his arm hanging limply, with one leg mangled by Barnett's messengers of death, lived—is he to be framed for a crime he was innocent of?

708 Some months ago a bank was robbed at Huron, South Dakota. It was necessary that the crime be fastened on someone and what would be easier than to hang it on the "notorious gunman, Roy Rogers!"

The daily papers could be counted upon to do their part; our chief could be counted on to furnish Rogers "record." The rest would be easy. What a Mose Barnett henchman's bullet had failed to do; what Mose Barnett's own bullets had failed to do—REMOVE ROY ROGERS FROM THE GANG'S PATH—the law could do!

And they call that "justice."

And they are going to do it. This farmer boy who refused 709
to wear the yoke of a Jew gangster, who smiled in the face of death and defied the ignorant bully who disgraces the office of chief of police of this city, will be crucified on the cross of their combined savagery. What a miserable farce, what a travesty on "justice." They never gave this boy a chance, but branded him an outlaw. When Barnett's plans to kill him failed, they framed him.

Why, Rogers himself told me that Frank Brunskill, after pledging that he would see to it that Mose Barnett and his friends paid the hospital bill at St. Barnabas, and they never 710
paid a cent! Barnett shot Rogers down in cold blood; Brunskill turned the killer loose on a nominal bond, then, even when informed the victim was within the shadow of death, ordered him removed to another hospital; Barnett, the known killer, a friend of the chief's, and a member of the gambling syndicate; Rogers facing a long prison term for a crime he never committed.

And yet this blatant coward boasts of the sacredness in which he holds the oath he took to protect life and property and uphold the law! Bah!

Mose, the killer, a fugitive; Rogers, the newspaper-made 711
"notorious gunman," facing a long prison term; Brunskill, ex-beerwagon driver, kept at the head of a police department. And they call this "justice!"

WILL HE RESIGN OR FACE INDICTMENT?

Why Is It That Chief of Police Brunskill Has Not Been Asked to Resign by Our Mayor, or His Indictment Sought by Our County Attorney? He is the Most Irresponsible, Inefficient Officer On the Force, Bar None; Two Weeks

712 Back We Accused Him of Accepting Two Hundred Dollars From a Bootlegger.

For weeks past I have called the attention of taxpayers of this city to the inefficiency and worse, of this man Frank Brunskill, chief of police. He has exhibited the most glorious bronze of any individual in public life today. He is either devoid of common sense, of every element of decency or a TOOL OF THE UNDERWORLD.

This paper has made charges against Chief Brunskill that
713 would have forced an investigation of his official acts HAD THERE NOT BEEN SINISTER FORCES SEEKING TO BLOCK ANY SUCH INVESTIGATION.

The Saturday Press has charged that Frank Brunskill, chief of police, had absolute knowledge of the operation of a gambling syndicate in this city.

The Saturday Press has charged that a bootlegger paid two hundred dollars to Mose Barnett, known gunman and a shareholder in the gambling syndicate, at the end of a phone conversation with Chief Brunskill. That charge alone should be sufficient grounds upon which to base an investi-
714 gation of Brunskill's connections with the underworld. That money was paid with the distinct understanding that it was to be turned over to Chief Brunskill. The Saturday Press published verbatim, the conversation between bootlegger and chief and there has been no action taken to verify that charge. Why?

Frank Brunskill, chief of police, took it upon himself to ban this paper from the news stands of this city, just as soon as it exposed Mose Barnett and the gambling syndicate.

IF CHIEF OF POLICE BRUNSKILL HAD NOT BEEN GUILTY OF THE CHARGE WE LATER MADE, that he

was a sympathizer with, if not an actual beneficiary of, the gambling syndicate, HE WOULD NOT HAVE BEGUN HIS ILLEGAL ASSAULT UPON THIS PAPER. 715

We launched no attack against Brunskill or his department, BUT HE RUSHED TO THE DEFENSE OF THE FOULEST SCUM THAT EVER DISGRACED THIS CITY —THE TWIN CITY REPORTER AND ITS ALLIED THUGS.

And, right here, we cease following the lines of least resitance. We DEMAND THAT FRANK BRUNSKILL RESIGN AS CHIEF OF POLICE OR THAT HIS INDICTMENT ON THE CHARGES WE HAVE ALLEGED, FOLLOW HIS REFUSAL. 716

If no Hennepin County grand jury dares indict this man Brunskill, then we shall at once take steps to have a special grand jury impaneled and a special prosecutor put in charge. WE MEAN BUSINESS.

IF FRANK BRUNSKILL SO LOVES THE UNDERWORLD THAT HE IS WILLING AND EAGER TO SURRENDER, NOT ONLY HIS OWN PERSONALITY, BUT THE CITY'S FUTURE TO A GANG OF BLACKMAILING CUT THROATS AND KILLERS, LET HIM RESIGN OR STAND TRIAL LIKE ANY OTHER CRIMINAL. 717

If he is being protected by his "friends" in official life, let's know it. Let them come forward and show themselves to be with Frank Brunskill and his underworld cronies or with the decent element of this city. Step out and be counted, gentlemen.

Underworld rule of Minneapolis has come to the end. WE ARE GOING TO HAVE LAW ENFORCEMENT, LAW RESPECT AND LAW-ABIDING OFFICIALS OR WE'RE GOING TO HAVE A NEW SET OF OFFICIALS.

718 Frank Brunskill has proven himself to be grossly unfit to occupy the position of Chief of police. He has proven himself to be an ally of the most notorious gang that ever infested the city. He has illegally used his official position to prevent the exposure and certain punishment of underworld characters.

He has done nothing toward protecting the taxpayers, the business men, the decent people of this city from the vermin that feed on our social body. He has done nothing in the more than four years as police chief, to rid the city of that filthy, blackmailing rag, the Twin City Reporter. On
719 the contrary, he has done everything in his power TO KEEP THAT SHEET ALIVE.

And this Brunskillism, this rancid rule, this flagrant disregard of decency must end and it cannot end AS LONG AS FRANK BRUNSKILL REMAINS AT THE HEAD, OR IN, THE MINNEAPOLIS POLICE DEPARTMENT. Let him resign or be indicted. He richly deserves the latter but more generous than he ever dared be, we give him his choice: Resign or face indictment.

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720 In some respects the election machinery in Mexico is quite similar to ours, except that a candidate who is eliminated is eliminated.—Detroit News.

The army order forbidding dogs to accompany troops on parade is believed to be a sequel to a recent inspection, when a dog jumped up and licked the General's hand. The dog ought to have known that only Colonels are allowed to do that.—Punch.

AS OTHERS VIEW IT:

721

LET'S HAVE THE FACTS

The Saturday Press, a weekly newspaper, has appeared in the city exposing vice conditions and making serious charges against the police department and particularly the chief of police.

Names of resorts, alleged to be gambling houses, have been published, together with the names of the proprietors and other information upon which the police could act.

"Mose" Barnett, implicated by the Grand Jury indictment in the acid throwing at the Shapiro Dry Cleaning 722
plant, was named repeatedly in the Press previous to the indictment as being one of the "gambling ring." Since his indictment this individual has not been found though his attorney said he would appear any time he was wanted.

The fight of the Press is being made against the Twin City Reporter and those who are said to be associated with that paper in a gambling ring. H. A. Guilford, one of the editors of the Press, was shot several weeks ago and is now in the St. Barnabas hospital. The Tribune, in a front page editorial, demanded that the town be cleared of the "ring." 723

We know nothing about the personal relations of the editors of the Press, the gambling ring or the chief of police. We do not know anything about underworld politics. We do not know anything about the graft, corruption, vice conditions or any such matters which may or may not have existed in this city.

But the Twin City Reporter has disappeared from most of the newsstands of the city (by police orders, we are told.) But if the police can bar this paper from the stands now, why has it not been done for years past? The Saturday

724 Press has been barred from the stands from the first issue. WHY?

The resort on Hennepin Avenue has been closed down, we are told, but our informant also says that it closed after the Saturday Press made its charges. "Mose" Barnett is gone, although he has an appointment with the officials for an important interview. Those said to be responsible for the shooting of Guilford have been indicted by the Grand Jury and were taken into custody by officers from the Sheriff's office.

We feel that there is a burden of proof resting upon the
725 Police Department. Although positive charges were made in the Press, no action has been taken and no denials issued. The police owe it to themselves and the city to give the facts to the public.

We want to trust the police. We want to believe in Frank Brunskill. We want to feel an honest effort is being made to keep this city clean. But we feel that facts and honest statements are needed just now.

—The Simpson Summons.

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726 ANOTHER CHURCH'S VIEW

A matter, which although not of a religious nature, nevertheless should be reckoned with in cleaning the city's much condemnable social and political situation is the beginning of a weekly newspaper under the name of the Saturday Press, which has for its declared special purpose the worthy motive of destroying the Twin City Reporter, together with forcing the chief of police, Mr. Brunskill, either to get out of office or do his duty.

The newspaper's first number demanded that the authorities close a number of gambling houses operating promi-

nently in the city which the paper declared had operated under police protection. This paper declared also that the publishers of the Twin City Reporter were directly interested in these gambling houses and reaped a large harvest therefrom. The publishers of the Saturday Press were offered a "weekly pay envelope" for their silence. A threat followed. Then, after the publication of the first number, one of the editors, who lives in Robbinsdale (and therefore was at that time outside the city) was shot a few feet outside the city limits while on his way to the office. 727

Because of this fact, the matter comes into the hands of the sheriff of Hennepin County and so we might hope that the matter will be handled on its merits. 728

But (and this is peculiar to notice) what the city's church organizations had been unable to accomplish, namely, the ridding of the above unspeakably unclean paper from the street news stands, the new paper has already accomplished! The Twin City Reporter has not been seen on the news stands in the past few days.

The Saturday Press was denied the privilege of being sold on these news stands by order of the authorities, because of its attacks and to make this plausible, this denial was extended to the other paper. The Saturday Press continues issuance at 240 South Fourth street, Minneapolis, and as it is not an obscene paper it may be sent through the mails, an avenue not open to the other paper (the Folkebladet editor is in error on this point—the Twin City Reporter HAS enjoyed the second class mail privilege and notwithstanding its flagrant violations of the mailing regulations, continues to enjoy, though it shamefully abuses, that right.—The Old Man.) 729

Not a single one of the Minneapolis daily papers will or

730 dares do anything with these matters and it is a ray of light in all this darkness to find an attempt is being made from another source. It will be interesting to see what the outcome will be "when Greek meets Greek."

To this may be added that Dr. Steffeld, the new executive secretary of the Minneapolis Federation of Churches, mentioned in his opening address at a recent meeting of the Federation that the city's social conditions would be considered and observation especially extended toward the City Hall, and we dare hope that something will be done.

What the new board of directors will do, is a matter of
731 interest. Generally speaking, it is a well known fact that those who sit in high places of the churches are not much concerned with what transpires in the lower stratas of society.

On the ground of this "aloofness" the criminal elements are permitted to carry on their travesties on a larger scale than would otherwise be possible. It is always disagreeable to touch anything that is unclean and because of this there are times when things that should be done by those who sit in the higher places, must be done by those not enjoying
732 that position.

One knows that conditions are often such in politics generally. Church people will not have anything to do with politics because there is too much "smut" and so long as such views exist, the law-breakers will, with more freedom, ply their game.

Aversion to what is termed the "social gospel" will often cause preachers and church members to hurry away from places where robbers are operating.

But is this Christianity?

—From the Lutheran Church organ "Folkebladet" of October 26.

WILL HE? WATCH HIM DO IT! 733

Thursday the Saturday Press put an ex-service man on the corner of Fourth street and Hennepin avenue to test out Chief Brunskill's threat to jail any person who dared offer this paper for sale on the streets of Minneapolis. A stool pigeon (one of Brunskill's numerous "yes" men) purchased two papers and a moment later returned them, at the same time demanding that his money be given back. He also imparted the information that "you will be arrested in a few moments."

He was right—almost.

Our man was taken to police headquarters but no charge 734
was placed against him. Our attorney was on hand ready and eager to open a fight that will eventually place Minneapolis on the list of "clean" cities. But Brunskill was wary —and wild.

He found that no charge could be placed that would "stick." In brief, he found that THE SATURDAY PRESS WAS A CLEAN PUBLICATION and that there is no law (except the Brunskill-made "statsures") that gave him or any other cockroach official a right or the power to imprison any man who offered it for sale and no law that gives even a 735
Brunskill power to ban it from news stands. Our friend was turned loose with instructions to take the first St. Paul car and get out of the city.

The ex-service man is a cripple—but not in the head!

Brunskill evidently noted that fact despite his density of intellect for he snarled, "If you weren't a cripple I would take you upstairs and show you a police department." MEANING HE WOULD TAKE THE MAN WHO FOUGHT FOR HIS COUNTRY, UPSTAIRS AND BEAT HIM UP. A fine specimen you taxpayers have in your em-

736 ploy as chief of police!

Vent his spite on a man who had violated no law; a man who sold a free publication on the free streets of a free city!

During the chief's tirade, our man reports that the chief made the statement that he "would take care of" me—the Old Man.

If that was intended as a threat of GUNMEN VENGEANCE, I serve notice right now on the ex-beerwagon driver that he can turn his monkeys loose any time he wishes. Mose Barnett, Brunskill's friend, made almost the same identical threat against Mr. Guilford and a few days later
737 Guilford was shot.

If he intended it as a warning, he is wasting his wind. If he thinks "the Old Man" can be scared out of town by the blah of a Polack, he's the most woefully mistaken bird in the covey. That has been tried out before.

The interference with street sales of this paper by the chief of police is an usurpation of power never before attempted by any police head of this city. But Minneapolis never before took a beerwagon driver from his high seat and placed him in charge of the police department!

738 If the County Attorney had the power to decide that this publication was legitimate, that it contained no lewd, lascivious matter, then he most assuredly had the power to order Chief Brunskill to cease his illegal interference with our street and news stand sales. Will he do it? I have a hunch that he won't. I have another that it will take the report of a special grand jury and the impartial lesson of a special prosecutor to teach the rudiments of legal action and legal procedure to our local officials.

Brunskill orders the man who offered this paper for sale on the streets, to leave town. Where does he find his author-

ity for that arbitrary act? Like too many of his other acts, it is Brunskill-made—without a shred of legality. 739

But what can one expect of a bonehead who hobnobs with gunmen, gangsters and the scum of the underworld? Nothing!

A FRANK STATEMENT OF FACTS

I believe in playing the game with my cards on the table. I despise a crook and a hypocrite.

I have done the work of four men since Mr. Guilford was shot down by gunmen. I haven't whined for your support. It has come without whining. You, many of you, have responded nobly and a great many haven't responded at all except to tender me your "moral support" and congratulate me on my "guts." 740

Praise, we all love. It is the sauce of an otherwise sordid life. "Moral support" is the flimsiest thing in existence. It's like the wonderful climate of Southern California—wonderful for a few mouthsful but decidedly unfit for a steady diet. If you doubt this, try either of them out. I've tried both.

So, we have come to the point where we can talk frankly to each other. This paper needs SUBSTANTIAL support, not "moral." 741

I do not mean to infer that it is going out of business, NOT UNTIL IT HAS DRIVEN THE RASCALS OUT OF HIGH PLACES AND RODENTS OUT OF LOW PLACES IN THIS CITY. And then it won't expire, FOR LONG BEFORE THAT TIME COMES YOU WELL-TO-DO CITIZENS WILL HAVE DISCOVERED THAT YOU NEED IT!

There are ten score men in this city who are financially able to help me carry on this fight until Mr. Guilford reco-

742 ers sufficiently to take on his share of the load AND I WANT YOU FELLOWS TO TAKE HOLD, I mean YOU!

Don't hand over your money to a solicitor—SEND IT DIRECT TO THE SATURDAY PRESS, 240 South Fourth Street, AND DO IT RIGHT NOW.

I'm not a quitter. I'm going through with this fight if it costs me my life, but you fellows almost sap my courage by your indifference.

THIS IS YOUR FIGHT!

The Twin City Reporter has defied you, blackmailed you, hovered over you like the shadow of an imp from hell. You
743 have shuddered in fear of what it MIGHT do to wreck the home or blacken the reputation of some friend or relative, if not yourself, and yet you hesitate to help me finance it!

I say "me" because I'm alone. THE GANGMEN WHOM OUR POLICE CHIEF BERATES ME FOR EXPOSING, slot down my buddy in cold blood. The dirty rats never gave him a chance AND YOU AREN'T GIVING ME MUCH MORE THAN THE KILLERS GAVE GUILFORD.

I've shot square with you, I'm going to continue that same thing. If you'll show me a man I ever double-crossed, I'll
744 quit right now. But I want something besides your jawbone currency and moral support. Save your praise or spread it thinner.

If you WANT Minneapolis rid of the Twin City Reporter and its known blackmailing gang—if you want Minneapolis cleansed of gunmen and rats, GET BACK OF THIS PAPER WITH FINANCIAL SUPPORT. Save that "moral" stuff for someone else.

—The Old Man.

Canada admits duty-free American shipments of liquid

anilin dyes. But when it comes back across the border the Prohibition agents grab it.—Arkansas Gazette. 745

The yellow race may dominate the world some day, but not unless the white race gets too yellow to dominate it.—New Bedford Times.

Judge—Have you anything to offer to the court before sentence is passed on you?

Prisoner—No, judge. I had ten dollars, but my lawyer took that.—Presbyterian Advance.

746

THE SATURDAY PRESS

A WEEKLY "WHO'S WHO AND WHY"

The Northwest's Snappiest Newspaper

Business Office, 240 S. Fourth Street

Two Dollars per Year in Advance

On Sale on News Stands, Everywhere, Every Friday

OUR MOTTO:

Laugh and the World Laughs With You

Grouch, and Your Grouch Alone.

HOWARD A. GUILFORD 747

J. M. NEAR (The Old Man)

Editors and Owners

A First Class paper, available everywhere but not entered as Second Class Matter anywhere.

Dealers and Subscription Agents wanted—Liberal Commissions.

NO MODIFICATION

Several wellmeaning and sincere friends have frankly told me within the last ten days that if I would modify my lan-

748 guage, put the soft pedal on as it were, a great many people who are at heart in sympathy with the Saturday Press but who shudder at its blunt language, would rush eagerly to its support.

I hope I may be pardoned for expressing my doubts in this case. I admit that my language is more pointed than polite, that my classical English isn't always highly polished but I deny that its modification would render it more effective.

You good folks have been fed-up on well chosen words too long as it is. Your city is reeking with vice, red with 749 crime, vulgar with wardheeling politicians and officials, malodorous with lewd literature, gang-ridden and gambler-controlled and yet you advise me to be more circumspect, more scholastic in my expose of these conditions!

Do you really expect this Augean stable's foulness to be cleaned up with kid gloves and a silken mop?

How much of this municipal and official filth has been uncovered during these years when your daily papers and your weekly press and your monthly publications have poured a cataract of choice language into your offices and 750 homes? Why, none of it.

And, if the Saturday Press came to you each week with a soft-worded "expose" of known conditions, you wouldn't read a word of it and you would do less than you are doing now.

You are acting, BECAUSE YOU WERE PRODDED INTO ACTION BY LANGUAGE YOU COULD ALL UNDERSTAND; even the most highly educated of you understand what the Saturday Press means when it says in uncamouflaged English the things it says every week. So:

I'm not going to modify my language at all at all. I don't

like to hurt your feelings, don't want to and won't do so in any spirit of malice BUT I'M HERE TO MAKE YOU THINK and I'm going to do it. 751

Now let's get away from this soft pedal stuff and get back to earth; forget for the next few weeks that we are lord or serf, aristocrat or plebian and be just men and women—just folks.

Later, when we have set our municipal home in order—cleaned house—THEN if we feel that we have a grievance D—a peeve at each other over questions of religion, language, prohibition, politics or creed, THEN let's thresh them out—not now. 752

I differ with you on many things—there isn't a day that someone doesn't come to the office and propound a belief that I am antagonistic to or put up an argument that sorely tempts me to combat, but I swallow hard and keep my eye on the common target. And when he gets back on the job, you will find Mr. Guilford doing the same thing. We have set our hearts on the things we have told you about in these columns:

Cleanse Minneapolis of its commercialized vice ring; rid it of gangsters and gunmen; break the power of the gambling syndicate and RID IT OF THAT FILTHY RAG, THE TWIN CITY REPORTER. 753

Until these things are done, you can't quarrel with us and you can't drag us into any argument, racial, religious or political. We aren't fighting a clean opponent—we are mopping up the filth that has accumulated because of a city-wide indifference brought about by a too copious dose of classical language and "ethical journalism."

Have you seen the latest number of the Schall-Davis "Me-

754 too" sheet, the semi-defunct Minnesota Leader? If you didn't, you aren't any the loser and if you did—

Well, can't you recall how weary you were of that last Thanksgiving turkey? Seventy consecutive meals after that noble bird should have disappeared, it bobbed up in the form of hash or camouflaged with an alleged "dressing" or under a misleading monicker; but the flavor! No chef in the world can camouflage that.

And that's Schall's laudatory sheet. It is hash and—, but still Tommy and Tom's gush and blah. As soon as this local scrimmage is over, which won't be long, I intend to roll all
755 over the mat with the "Two Toms' Tom-tom" and the two Tommies. What Frankie's getting will be an all-day sucker in comparison.

Do any of you late "old timers" recall the password "these furs are Dorothy's"? And the gent who came rushing down to bawl out the two rookies who had forgotten the password or else weren't let in on the game? Want me to tell it? Alright, I won't—this time.

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756 Will our very efficient County Attorney take note of the fact that Chief of Police Brunskill has been charged in these columns with having accepted money from a bootlegger and act accordingly? A violation of the law, you understand, renders the violator liable to prosecution regardless of social, official or other position.

"I know the truck and I know the driver but I can't"—he cayn't, he simply cayn't.

Know of anyone who has missed any oriental rugs lately?

Some Indiana officials may get terms they didn't run for. 757
—Punch.

THE OPINION OF A TEXAS JURIST

In a recent letter addressed to Mr. Harold Birkeland, Judge Wm. Pannill, chief justice of the Court of Civil Appeals, Eastland, Texas, says:

"I was very much interested in the paper (The Saturday Press) you sent me. Maybe the people can be aroused to a realization of conditions in your city. If so, you may be able to get attention to your case. It is your only hope. As long as the case is to be handled by the local authorities as though 758
they were handling it on its merits, it will be suppressed.

An aroused public opinion and wholesale housecleaning among your city officials is necessary to success in your efforts in regard to your father's case. It will avail you nothing to collect evidence, if the Grand Jury is to be under the influence and advised by hostile local officials. My experience is that, with all the law-enforcing machinery co-ordinating, it is difficult to convict prominent people—and impossible where the police and prosecuting officers are not in sympathy with the prosecution." 759

Judge Pannill spent several weeks in Minneapolis making a personal survey of the Birkeland case. He is well advised about our present local political situation as well as what transpired in the "investigations" made in connection with Rev. B. K. Birkeland's death and bears the firm conviction that justice has been foully led astray. Because of the high office he holds in the legal world, his above remarks should carry much weight.

"An aroused public opinion and wholesale housecleaning among your city officials is necessary to success in your efforts in regard to your father's death."

760 She—I read that Dickens sometimes worked two weeks on one paragraph.

He—That's nothing; I have an uncle who worked twenty years on one sentence.

Fair Maid—Oh sir, what kind of an officer are you?

Officer—I'm a naval surgeon.

Fair Maid—Goodness, how you doctors do specialize.

PETTY "VENGEANCE"

761 Isadore Valich operates a tiny magazine store at 201 Washington avenue south. Thursday's daily papers ballyhoo the message to the world that Isadore was arrested by Kaufman of the "purity squad" for operating a punchboard and, found guilty, was sentenced to five days in the workhouse. The doughty squadman merely obeyed the orders of his chief. Perhaps Isadore had a punchboard in his place of business but aren't there others in the city? Were any of Mose Barnett's punchboards and baseball games raided and that greasy bucko sent to the "works"? Warble it to the world that Mose wasn't molested!

762 But let me tell you the REAL reason Isadore Valich was arrested and sent to the workhouse for five days:

Isadore Valich was one newsdealer THAT FRANK BRUNSKILL COULDN'T BLUFF. Valich sold more copies of the Saturday Press than any other dealer in the city and just a few days ago two officers entered his little place of business and ordered him to cease selling the Saturday Press UPON PAIN OF ARREST.

What do you think of a miserable rnat who will send his subordinates out to intimidate newsboys and small merchants? Why is it any business of the chief of police WHAT

publications are sold in this city AS LONG AS THEY ARE NOT OBSCENE? 763

When the officers gave Valich the warning to cease handling this paper or take the consequences, he called their bluff—he thought he had a few rights left AS A TAXPAYER, but he reckoned without his Brunskill! He went to police headquarters and asked to see the chief. He couldn't. HE WASN'T A MOSE BARNETT OR AN ED MORGAN—neither a gunman nor the editor of a scandalous blackmailing sheet. He was only a small business man engaged in legitimate business—and the chief couldn't see him!

He was shunted to first one captain and another and finally informed that he COULD see "his royal slyness" the following day. He reported back for information. HE WANTED TO KNOW WHO WAS RESPONSIBLE FOR THE ORDERS ISSUED BY THE TWO OFFICERS. Didn't he have a right to know? Is it a crime in this city for a taxpayer to seek information at police headquarters? Is this ignoramus, Brunskill, a sacred potentate that he cannot be seen by his subjects? 764

Valich went back the following day and again the chief couldn't see him. Perhaps he was in deep consultation with a Barnett-Morgan henchman! 765

Then, Thursday he was arrested and sentenced to five days in jail, ostensibly for owning a punchboard—IN REALITY BECAUSE HE REFUSED TO CEASE SELLING THE SATURDAY PRESS!

It seems incredible that citizens and taxpayers must submit to intimidation and coercion by this numbskull, Brunskill. Are even our courts in awe of the bawling blatherskite's wrath? Can men who dare defy that microbe be sent to the workhouse that his petty vengeance may be satiated?

766 I don't believe there is a judge in this county who would knowingly send a man to jail because Frank Brunskill wished it.

Of course Isadore Valich quit offering the Saturday Press for sale. But that doesn't signify that Frank Brunskill has it licked! It doesn't signify that Frank Brunskill is going to put it out of business EVEN IF HE DOES LOVE ED MORGAN'S VILE RAG SO INTENSELY THAT HE'S WILLING TO VIOLATE A DOZEN LAWS IN ORDER TO PROTECT IT!

It simply means that you live-wires out there in front
767 HAVE GOT TO WORK A LITTLE HARDER AND DIG A LITTLE DEEPER.

The Saturday Press IS GOING TO LICK FRANK BRUNSKILL AND THE TWIN CITY REPORTER if it takes the balance of Leach's tenure in the mayor's chair to do it—if it costs the lives of both editors. BRUNSKILL HAS THROWN DOWN THE GAUNTLET; he has spit in the face of every man and woman in the city of Minneapolis who makes faintest claim to decency. LET'S CARRY THE FIGHT TO BRUNSKILL AND THE MEN HE FIGHTS
768 SO DESPERATELY AND UNLAWFULLY TO PROTECT —Ed Morgan with his Twin City Reporter and Mose Barnett, fugitive gunman and his Apaches.

Poor old Isadore Valich sold only six hundred copies per week of the Press. Let's MAIL THREE TIMES AS MANY TO MINNEAPOLIS TAXPAYERS EACH WEEK.

Let's force Brunskill and the Twin City Reporter TO QUIT—the one his office and the other its fetid existence.

NOT A MATTER OF RACE

November 2, 1927.

Mr. J. M. Near,
The Saturday Press
Dear Sir:

I wish to inform you that I have just read the Saturday Press for the first time. I read every word from the first page to the last and I was favorably impressed. I admired your choice of words and style of writing. That's ability. I admired your putting them down in black and white, that's courage. To combine those two characteristics and apply them to a worthy cause is very commendable.

But with these roses I am handing you, there may be a few thorns. That is dependent on your own deduction. I am now referring to your using the word Jew in connection with Mose Barnett's name. There is no question about it, he is a Jew. But, I do think it a poor policy to place it the way you did. There are many crooks, murderers, and what-nots of every breed and denomination. The Saturday Press, I assume, is a non-sectarian publication. To shame and stain a people, Jews, Swedes, or any other, is rather unfair, don't you think, by linking its name with a lawbreaking individual? Hoping I have put it to you clear enough, I'd appreciate any comment, contrary or otherwise.

Very cordially yours,

The above is a courteous communication and deserves a courteous reply. I shall do my best:

It is a fact that Mose Barnett is of the people known since Biblical days as "Jewish" and when I refer to the gunman as a "Jew" I mean no slur at that race. If Barnett were as Irish as myself, I would refer to him in the same terms as I do now—a dirty rat Irishman. Were he a Swede, and that

772 wouldn't save him.

The race from which he sprung is not to blame for his beastly acts and no one, not even myself, charges it is. I mention Mose Barnett as being a "Jew" as a matter of racial designation. I don't want the Norsk, Svensk, Germans, Poles nor any nationality other than his own, to bear the odium of his name. It is unfortunate that he IS a Jew, but as long as he IS, and not even my correspondent will deny it, I see no harm in putting the gunman in the right column of the catalog.

773 I recognize the fact that not all Jews are gunmen, that there are "good and bad" Jews, just as there are "good and bad" of every other race. I know men of Irish descent that I wouldn't let my dog (if I had one) bark at and I am of Irish descent. Does that satisfy my courteous correspondent?

WANTED

A man who is a taxpayer in this city to sell the Saturday Press on the streets. He will be picked up by Brunskill's men, that's a cinch, but bail will be ready and an attorney 774 on hand. The Saturday Press proposes to see if Brunskill can intimidate the courts as he has so many citizens in private life.

He has bulldozed and bluffed practically every news dealer in the city and we want to make a test case. Who will volunteer to stand the tip of John Law's fingers on his shoulder for about ten minutes?

Once in court and we shall soon find out if Minneapolis shall hereafter be known as Brunskillville (or Pollock Center).

An arm protruding from the side of a machine ahead apparently can signify any one of the following things: The motorist is (1) knocking ashes off his cigaret, (2) going to turn to the left, (3) warning a small boy to shut up, (4) going to turn to the right, (5) pointing to the scenery, (6) going to back up, (7) feeling for rain, (8) telling the wife he is sure the front door is locked, (9) hailing a friend in a passing car, (10) going to stop.—Orlando (Fla.) Morning Sentinel. 775

Laugh and the world laughs with you; weep and you streak your rouge.—Los Angeles Times. 776

OLD SI HICKS

Some fellers call me lazy—well
Maybe I am, but if I be
It's up to them same folks to tell
Where they've got th' best of me,
What if I loaf a bit and sing
Myself to sleep out in the sun—
Has ever God said anything
Aginst a feller's havin' fun? 777
The banker toils away, and counts
The dollars as they ramble in;
I take a sunlit path that mounts
Up where the winds begin to spin.
The rich man from his weary toil
Gets more than his two hands can hold;
I, freely from the common soil
Grab violets and marigold.
Lazy? I reckon that is true;
I loaf sometimes while others strive

778 But friends, I ask, betwixt us two
Which do you think is most alive—
The man who bends his head so low
He sees no sun along the sod,
Or he who, puttering, lazy, slow,
Has time to love the work of God?

—Ex.

THAT "13-DOLLAR JEW"

While he is tossing off that beautiful fit, Mr. Brunskill
779 might entertain the audience with a recital of how he came to take such an interest in a party known as the "Thirteen-dollar Jew."

But he's so busy trying to crush this publication so that Ed Morgan can continue coercing the city with his blackmailing rag, or Mose Barnett regain his title of "king of the Apaches" that he won't be able to recite his little verse. So here goes:

This "Thirteen-dollar Jew" was a New York "dip," a petty thief, a pickpocket, who had stepped outside his professional lines and "dipped" into stuff far beyond his depth. In short,
780 he won for himself a perfectly good indictment by a New York grand jury, conviction whereof and thereon, meant five years in the Knickerbocker city's bastile.

Now, the hoodoo numbered Jew had pronounced dislike for sorrow-foundries so he migrated to this city and reported to Mose Barnett, who at that time operated a joint near the Metropolitan theater.

Moe greeted the New Yawker with open arms or a greasy grin and at once set about to install the fresh adjunct in the good graces of "the best chief of police Minneapolis ever had" (the rest of them must have been pippins!)

For almost two years the "Thirteen-dollar Jew" hung around Barnett headquarters WITH THE FULL KNOWLEDGE OF FRANK BRUNSKILL. It is said that during those vagrant months, the "wanted Jew" of uneven denomination, acted as "snitch" for Brunskill. Also that during those same months, the New York police sent out "hurry back" calls for the aforesaid wanderer but that Frankie ignored their frantic yelps. However that may be, the fact remains that a NEW YORK PICKPOCKET, AN OUTSIDE CRIMINAL, SOUGHT AND FOUND REFUGE IN THIS CITY. 781

In a manner well understood by bacteria of his ilk, the "Thirteen-dollar Jew" managed in some way to get the caliber of his indictment reduced from five years to something like ninety days and he at once, upon receipt of the glad tidings, vamoosed Brunskill's baliwick and returned to little ol' New Yawk. He never came back. 782

And this, then, is the Brunskill who declares with a whoop, that the Saturday Press shall not be sold in this city? A protector of men he KNEW AND KNOWS to be criminals and crook?

783

Host (appearing on darkened veranda)—Are you young folks all enjoying yourselves?

(Absolute silence.)

Host (returning indoors)—That's fine!—Life.

THE SATURDAY PRESS

Is the name of a new weekly magazine published by friend J. M. Near, at Minneapolis, Minn. Near wrote some wonderful articles for the Rail Splitter during the past two years and his new paper is ging to be one of the best free lance

784 publications in America. We owe Near a come back because of the great help he has given this paper and the cause it represents in the past. Near has a thorough grip on national political issues and in the new publication he is going after the crooks and hypocrites with his old fashioned style, which means that he is going to turn out some mighty spicy reading during the coming months. I do not agree with everything Near writes, neither will you, but he will give you a good show and when you send a remittance for his paper you are helping a man who is always the friend of the under dog and who has a heart as big as all outdoors.
785 Send stamps for a sample copy or $2 for a year's subscription. Address The Saturday Press, Minneapolis, Minn.

—Wm. Lloyd Clark in the "Rail Splitter."

"Buyers of cars are more particular nowadays than they used to be, are they not?" we asked.

"Oh, yes!" responded the dealer. "While they used to ask all sorts of questions about the mechanism, power, and so forth, now all they want to know is, 'What is absolutely the lowest advance payment I must make?' "—Kansas City
786 Star.

Tramp—Sorry, liddy, I'm absolutely overwhelmed with trousers. But I was most anxious for an old overcoat before the season starts for puttin' 'em over motor car radiators!
—London Humorist.

Early to bed and early to rise, and you won't get trimmed by the night club guys.—Sumter (S. C.) Item.

The modern girl would make a wonderful cook if she could

find a kitchen that was run by a steering wheel.—Denton (Texas) Record-Chronicle. 787

Republicans afraid of Al Smith, says headline. So are the Democrats.—Winston-Salem Journal.

One gets a good notion of the relativity of time by seeing how rapidly prominent people can serve a jail sentence.—Springfield Republican.

Caller—Mr. Smithson in conference? 788

Sporting Office boy—Yeh, the old boy's gone into a huddle. —Life.

Back in the days when skirts swept the ground, it wasn't unusual to see a daughter sweep a room.—Cincinnati Enquirer.

EXHIBIT 8

THE SATURDAY PRESS

Vol. 1, No. 8 Minneapolis, Minn., Nov. 12, 1927 Price 5 Cents 789

WHY A RUG ROBBERY REMAINS "UNSOLVED"

A Ten Thousand Dollar Stock of Rugs Stolen and Police Offer to Secure Return of Stolen Property upon Payment of Twenty-five Hundred Dollars. County Attorney Advises Against "Settlement" and Investigator Wind-Jams While Thieves Frolic. What Saps We Suckers Be!

Four inches on the end of a dog's nose may mean the difference between a French poodle and a greyhound, but four

790 years more or less of a rotten administration means less. In brief:

The Chinese are habitual users of eggs aged by more than one century, and to we Caucasian connoisseurs of cackle berries, the addition of a century to an egg's age doesn't noticeably alter the flavor. And what happens to the long packed henfruit applies to our municipal administration and especially to our present chief of police. They were considerably rotten at the end of the first year and they haven't improved with the passing of additional years. The chief surely hasn't.

791 Perhaps his early environment had something to do with his present odorful record. He juggled "suds" for a widely known (I came awfully near calling them "well known") brewing company for several years and then managed, though only the gods can figure out how, to get appointed to the police force. He has clung to that paycheck like a porus plaster to a fat man's back—but he's getting loose at the corners!

Four years ago the city was electrified (?) one morning to read in the a. m. gurgle of a great rug robbery which
792 took place during the night. The morning spinster shrilled that valuable oriental rugs to the total of twenty-odd thousand dollars had been stolen. It was a brazen affair and. "Superintendent" of Police Brunskill was filled with wrath. At least a lot of perfectly good people thought it was wrath, when in fact it was nothing but tepid ozone.

But, the Oriental Rug Company had been robbed alright and, quite naturally, the proprietors reported the robbery to "our" police chief.

Days went and other days came and others loomed near by but no rugs were recovered.

One day a subordinate officer reported to one of the pro- 793
prietors of the Rug Company that IF he were willing to dig up twenty-five hundred dollars, his rugs would be returned!

He reported the offer as coming from his chief (Brunskill) and suggested that the matter be taken up with that individual without delay. Why the haste, affiant sayeth not, but there seems to have been a rush on and it wouldn't wait.

The following morning the Rug Company proprietor reported at Brunskill headquarters prepared to shell out two thousand five hundred dollars for the return of his own 794
property THAT HAD BEEN TAKEN BY THIEVES!

Now, roll over with that offer once more. Thanks.

An emissary, a subordinate officer of Chief Brunskill's department submitting to the victim of a robbery that, for a cash consideration HIS PROPERTY WOULD BE RETURNED!

"The best chief of police Minneapolis ever had," eh?

From whence did the chief secure the information that stolen property would be returned upon payment of tribute? Isn't it a remarkable (shall we be charitable and call it a "coincidence" or be more direct?) "coincidence" that a 795
chief of police would be able to settle a robbery upon payment of a cash sum BUT COULDN'T SETTLE IT BY ARRESTING THIEVES?

But the chief was "out" when the Rug Company proprietor walked in with two thousand five hundred dollars so the "settlement" wasn't effected. The victim of the robbery strolled up to the fourth floor of our "justice factory" and informed the county attorney of the offer made whereupon the C. A. waxed wroth and declared:

"Don't pay him a damcent," whatever sort of coin that is,

796 I don't know but perhaps someone else does.

Perhaps it was unfortunate and it may have been fortunate that the chief was "out" that particular morning. At any rate the rugs were never returned which indicates that the thieves were never apprehended and the thieves' victim saved his twenty-five hundred dollars.

Is it possible that the C. A. was actuated by an impulse to protect his former employe, Brunskill, from the taint of filthy lucre? Or was he sincere in wishing to secure the return of stolen property without stooping to barter with thieves?

797

At any rate an investigator put on the case by Mr. Olson failed to locate the stolen rugs, though he was long on promises to get quick action. On one occasion he reported to the Rug Company proprietor, "Go back to your store and wait; some of the rugs are coming back this afternoon."

HE TALKED LIKE THE RUGS HAD LEGS—going to walk back! But, like the fabled kitty, they "never came back."

Later on that same afternoon, this "investigator" phoned 798 the proprietor who was "waiting at the store" that he needn't wait any longer as the rugs weren't homeward bound. They had struck a snag and were hung up!

Now, if all these brilliant officials and officers knew where the stolen rugs were and who had them—knew they were delayed in transit and that they couldn't be moved at that time—doesn't it strike YOU as peculiar THAT THEY COULDN'T MAKE AN ARREST?

Later, the C. A.'s investigator reported that "you can get twenty of the rugs within 24 hours but you will be taking a chance on getting the rest of them, which are to be brought

in in about a week; so have decided to wait a week and 799
possibly get them all."

And who said anything about Sherlock Holmes being a wise guy! Old Sher was a dub!

Here in Minneapolis, we have a police chief who can coax a thief to return stolen property worth ten thousand dollars upon the payment of a lousy twenty-five hundred dollars and an investigator from the County Attorney's office who says to the man who has been robbed:

"We can get some of your property right now but we have to wait until the men who robbed you haul it in and 800
maybe that'll take them a week. But you sit on your thumb a while and maybe we can get all the loot."

A fine state of affairs, isn't it?

Well, the Rug Company proprietor has been waiting since March, 1924, AND HIS RUGS HAVEN'T RETURNED YET!

The police couldn't get them, although the proprietor informs me that Chief Brunskill almost tearfully admitted that he knew the truck that hauled the stolen rugs, he knew the driver of that truck AND YET HE COULD NOT GET HIM. And he's "the best chief of police Minneapolis ever 801
had!" What a wonderful assortment of marble-tops his official ancestors must have been! And there wasn't one of them who had graduated from the beer wagon class!

One day some months after the robbery of the rug store, a gangster well known to the police, reported that his home had been filched of several thousand dollars' worth of valuable rugs, silver and gee-gaws and he had them well insured. He was up against the proposition of proving ownership of the stolen rugs so he trotted down to the Rug Company proprietor (the Oriental Rug Company) and asked

802 that individual to give him a bill of sale so he could collect five thousand dollars of insurance. The celluloid medal for unadulterated bronze goes by unanimous consent to this bird.

He didn't get the bill of sale and incidentally he didn't get his insurance. But a short time later the Rug Company proprietor went to Brunskill's office to report the request for the bill of sale, that worthy waxed inquisitive and asked all sorts of simple questions as to the color of hair, shape of ear muffs and general outlines of the bucko who wanted a bill of sale for stolen property. But he dried up quick
803 when the rug company proprietor mildly inquired why all the questions, WHEN BRUNSKILL ALREADY HAD A REPORT FROM THAT SAME INDIVIDUAL REPORTING THE "THEFT" OF PROPERTY.

Less than three months ago some of those rugs were offered for sale in this city, and still neither Chief Brunskill nor the investigators from the County Attorney's office can find them. Just how hard did they try to find rugs or robbers?

They didn't try. Brunskill has never made a serious effort to apprehend a criminal since he has been chief of
804 police AND HE CAME TO THE CHIEF'S CHAIR DIRECT FROM THE COUNTY ATTORNEY'S OFFICE!

This rug robbery is ancient history, so to speak. And the Chinese Shanghai berries cackled over by biddies long gone to soup are no more pungent when cracked than the record of our police department since Frank Brunskill became its chief. The statue of limitations has applied to be sure, but a sincere Grand Jury would delve into this outlawed case if for no other reason than to establish the relationship existing between Frank Brunskill and the scum of the underworld.

AND THAT FATAL "IF"

805

President of United Tailors Asks That "If" Indicted Members of Dry Cleaners Association Are Found Guilty, They Be Given Jail Sentences. "If" the County Attorney Isn't Too Surprised He Will Find a Special Prosecutor at His Elbow When Mr. Guilford's Assailants Are Tried. He Will Anyway.

"IF."

The president of the United Tailors of Minneapolis is reported in the Journal as having requested jail sentences "if" indicted members of the Dry Cleaners' Association were found guilty. And he made the request of the County At- 806
torney. The gentleman is an unconscious humorist. "If."

And that reminds me:

"If" it had not been for the Saturday Press, Mr. Samuel Shapiro's case would never have been acted upon. "If" the late Grand Jury had not been furnished the facts in that case by the Saturday Press, or rather its attention called to the case by this publication, Mose Barnett would not have been indicted and the youthful gangsters would not have been identified as the acid throwers. So much for the County Attorney—thus far. 807

When Sam Shapiro told his story to the affable young gentleman who heads the County Attorney's office, he was told, at the close of the interview: "Whenever you want to go before the Grand Jury let me know."

"If" that wouldn't make you want to smoke a pickle, I don't know what would!

He had the story from Shapiro's own lips, almost verbatim as it later appeared in these columns and then he blandly informs the businessman that at his pleasure, he could unfold his tale to the Hennepin County Grand Jury. Why

808 didn't he order the man before that body and FORCE ACTION AGAINST THE MOSE BARNETT GANG? Isn't it his duty to furnish the Grand Jury with every shred of evidence showing violations of law that comes to his attention?

Must Grand Juries make their own investigations, uncover evidence upon which to base indictments, independent of the County Attorney's office? And then have him hem and haw about taking action!

There had been no action taken in the Shapiro case by police or the County Attorney until I called the attention
809 of the Grand Jury to Mr. Shapiro's case, in a personal letter.

Mr. Olson is a young man of pleasing personality. He has his life before him—mine's in the past. I have no desire to harm any man who wishes or tries to live right. God knows it's hard enough to get through life even under the best conditions; that temptations almost irresistible are continually met, but the man who can't meet them and resist them is doomed to oblivion. However:

Men who seek public office and who obtain it, must be of sterner stuff than the private citizen who is content to
810 plod along, unsought, unsung, unknown. And Mr. Olson is no exception to that rule.

He acquired the office he now holds through a turn of the Wheel of Fate. He saw his predecessor, a young man like himself, stumble, fall and go down. If he makes the same mistake that predecessor made, he has no one to blame but himself. Therefore: "If."

The men constituting the firms under indictment ARE found guilty should be punished. But will they be? Ah, there's the rub!

Mr. Shapiro's assailants were not brought to account

until this small paper published the story of Shapiro's assault and as I said a few lines back, Mr. Shapiro himself told me that County Attorney Olson had informed him that "whenever you are ready to go before the Grand Jury, let me know" and a few weeks later, after Mr. Shapiro had given up hope of being able to get his story through the doors of that jury room, I used the United States mail to reach the ears of the Hennepin County Grand Jury. And action followed within twenty-four hours. 811

"If" any or all of these indicted men or firms are convicted, the president of the United Tailors of this city requests that they be given jail terms. He evidently has his doubts that any of them will be convicted and he has a lot of shareholders in his stock of doubts. Why isn't the County Attorney as aggressive in his fight against crime as he was in his campaign for a much higher office than the one he now holds? There must be a reason. 812

Mr. Guilford was shot down by two gunmen on the morning of September 26. Fortunately the shooting took place just outside the city limits instead of just INSIDE as the gang had planned. I, knowing something of the bond of sympathy existing between our chief of police and gangland, called the Sheriff's office, but though the daily papers broadcast the news of that shooting, Mr. Olson made no attempt to learn from Guilford's own lips the story of that shooting. He made no attempt to learn of the wounded man whether the gunmen could be identified and, in fact, County Attorney Olson NEVER VISITED THE HOSPITAL UNTIL GUILFORD PHONED AND ASKED HIM TO CALL after he was practically out of danger! 813

When it seemed that Guilford must surely die, Olson made no effort to secure a statement and had it not been for

814 Sheriff Earle Brown, who watched the case carefully, Guilford, had he died, would have carried the identity of the gangsters and the story of his attempted assassination to the grave. The County Attorney seemingly ignored the attempt on Guilford's life—until Guilford spurned Death and practically FORCED the C. A. to insipid activity.

Is it the duty of the County Attorney to investigate or at least take notice of, attempted murders? If it isn't, then whose duty is it?

The County Attorney is the chief prosecutor. Upon his shoulders rest the responsibility of bringing criminals to 815 the bar of justice. He can prosecute vigorously or languidly and unless someone dares call attention to his apathy, there might be a few if any prosecutions.

I chanced to be at the St. Barnabas hospital one day when County Attorney Olson called on Mr. Guilford—an informal call, by the way—decidedly so. But during the "conversation" Mr. Olson inquired when Guilford would be able to go to court and testify against the two gangmen held on the charge of shooting him, and he registered real disappointment when he learned it would not be soon. Bear this 816 in mind: THE SHAPIRO CASE HAD NOT BEEN DISPOSED OF and yet the County Attorney was anxious to know how soon the victim of an attempted murder could attend court. Why the haste to bring the Guilford assailants to trial?

They couldn't well escape! They were well protected and they slept on no bed of pain. They were under no heavy expense. But, not a thought of their victim—bring him into court, let him testify regardless of his physical condition, eh?

Two gangsters were perched up under the Court House

clock, accused, indicted of and for two crimes. Their precious liberty must not be jeopardized longer than possible. 817

And then:

When Mr. Guilford was about to be taken to a relative's home so as to eliminate some of the heavy expense, he called the County Attorney's office on the phone to advise it of his new address. Mr. Olson wasn't in but an assistant querulously asked when he would be ready to testify against the two gangsters, adding that "IF YOU KNEW THE HEAT BEING PUT ON THIS OFFICE TO BRING THIS CASE TO TRIAL—IT'S AWFUL."

818

And again that fatal "If."

"If you knew the heat." Well, where was it coming from IF NOT FROM GANGLAND? And one question begets another: What "heat" can gangland apply to our County Attorney's office that it should be felt? Isn't the County Attorney's office independent of gang fear? Or is it like our police department, dependent on gang friendship?

There has been too much gangland fear and gangland influence felt in our local "halls of justice," and it is high time that citizens who pride themselves on being law abiding snap into action. 819

Our police chief has violated the law in his frantic attempt to prevent exposure of the Mose Barnett gang killers, acid throwers and election fraud perpetrators. He has used every illegal power at his command to stifle criticism of that malodorous rag, the Twin City Reporter. He has persecuted taxpayers who dared offer this paper for sale and —HE CAME FROM THE COUNTY ATTORNEY'S OFFICE WHERE FOR SOME TWO YEARS HE HAD ACTED AS AN INVESTIGATOR.

820 In Mr. Olson's office files there reposes an indictment against Ed Morgan, which according to Mr. Olson's own statement, he has held up for a considerable period of time. Will he please dust the cobwebs off that indictment and send Ed Morgan to trial on the charge of extortion?

I rather think he will—not.

Mr. Brunskill, chief of police, had absolute knowledge of the operation of the Barnett-"Red" Clare-Ed Morgan, et al. gambling den at 818 Hennepin avenue and he failed to act—except to try and crush this paper for daring to expose the operation of the hell hole. And Frank Brunskill
821 came direct from the County Attorney's office to the office he now holds! A few days ago he was scuttling around the grey-stone edifice seeking information as to what "legal" action he could take to end the Saturday Press' existence?

Why in hades doesn't he scuttle around and try to bring some of the rats this paper has exposed, to a halt instead of trying to suppress it? And he makes no move until he has consulted his former superior officer, the County Attorney! As I remarked a few stanzas back, Mr. Olson has his life before him. It is his to do with as he chooses. If
822 he chooses to align himself with insects of the Brunskill type, if he chooses to answer the beck and call of gangland, the choice is his. It's strictly up to Mr. Olson.

But:

He had as well understand now as later that he is not going to have the prosecution of the two Yiddish gunmen in his hands, alone. Mr. Guilford and myself have come to the conclusion that Mr. Olson is not quite as "determined in his determination" to convict these two youthful gangsters as he might be, so our County Attorney will have the assistance of a special prosecutor from the Attorney General's

office to help him.

And there's a reason for this just as there is a reason for every other thing in this life:

Mr. Olson once expressed himself as skeptical of our motives in launching this publication. We shared that skepticism equally with him. We doubted Mr. Olson's sincerity. We still doubt. We have proved ourselves—we are waiting for Mr. Olson to prove himself. Only we aren't going to wait. We consider the proof totally lacking and shall act accordingly. When Mr. Guilford is physically able to stand the ordeal of long, wearisome hours in a stuffy court room, then a special prosecutor will be asked for, to see that the two Jew gunmen are dealt out justice.

There will be no element of fear or gangland "heat" in that assistant to Mr. Olson. There will be no "heat" present.

We ask no favors of Mr. Olson—only a square deal. Will we get it?

We asked no favors from his former subordinate, Chief of Police Frank Brunskill, only a square deal. We haven't had it.

We have a right to our skepticism. We stand ready, have stood ready, to assist in every possible way, both the chief of police and the County Attorney's office, to clean up this city and to date all we have received has been threats, bullets, abuse, coercion and an illegal application of—the big stick."

If the lid must come off entirely, let 'er come!

"GIL'S CHATTERBOX" NEXT WEEK

Circumstances over which I have had no control have forced me, during the last six issues of this paper, to "hog

826 the film." In short, I have been compelled, through the activities of Mose Barnett's gunmen, to do all the writing since the first issue. But, cheer up. While Guilford's physical condition is such that it will be many weeks before he can shoulder any part of the manual burden, his mental condition is unimpaired and in next week's issue he will regale you with some of the peppiest stuff that ever appeared in his "Chatterbox."

Guilford, as many of you know, was shot by a couple Yiddish (some of my readers take exception to the word "Jew") gunmen on September 26 and was taken to St.
827 Barnabas hospital in what was thought to be a dying condition. His recovery is little short of miraculous. But he has recovered sufficiently to be removed from the hospital to a relative's home and is able to take a few steps about the house.

He insists that he has "loafed" long enough and intends, as I said, to try his hand next week with some mental chili in the "Chatterbox" column.

Now, I hardly expect the gang to get bunions on their vocal cords shouting "hurrahs" over this announcement. I
828 really believe they will blister their lips with curses but I can promise them that they will be blistered—somewhere.

Get your next week's copy at the office—if your favorite newsdealer doesn't handle it. Brunskill still has his little "ban" in active operation and it's pretty well effective in every other place than the Saturday Press office. "Gil" won't be able to write much, but what he does write will sizzle.

THE JOURNAL'S EULOGY

Every police office and detective in the city, with the exception of Chief Brunskill and his "yes" men, should feel

highly elated at the editorial appearing in the Journal last Tuesday. I submit that it irks the ex-beerwagon driver to have a mere daily paper eulogize him—he absorbs more mental nourishment from eight pages of this small weekly than he could from a year's outpouring of the Journal presses and yet he won't admit it! 829

The Journal couldn't resist the temptation to rub journalistic salt into the fresh cuts made by Brunskill's sharp tongue, when he abused the MEN under his command most shamefully and in the presence of newspaper men, for it quotes the most insulting portions of the chief's tirade and refers to that torrent of abuse as the chief's "straight talk." If the Journal were not a total stranger to shame, it would apologize to the MEN of the police department, but it never knew, like the chief it lauds, the definition of the word "shame." 830

The last Grand Jury overlooked the flagrant disregard for all law by Frank Brunskill, but it chastised the MEN of the police department who had banded themselves into a Journal-despised Union. Of course, the Journal knows that the police unions are only nominally affiliated with the A. F. of L., just as the Grand Jury would have known had its source of information not been clogged at its source. 831

Had Chief Brunskill really desired information on the bombing outrages, he could have found out where the bombs were manufactured by merely asking one of the Saturday Press editors, BUT BRUNSKILL DOESN'T WANT TO FIND OUT TOO MUCH. He isn't mentally equipped to carry a full load of knowledge. He's just the right caliber to fight a new publication that exposes his pets and refuses to stay licked even when one of its editors is shot down by his friend's gunmen.

832 Doctor McKay drove up to a small town garage and asked if he could get a puncture fixed there.

The young mechanic looked at him closely a minute and then asked.

"Ain't you the guy that took care o' me wife last year?"

"I am, sir, but what has that to do with my tire trouble?"

"Nuthin'. Only you ain't diagnosed it proper. You got a violent case of circumferential flatulency of the perimeter, an' it'll cost you five bucks."

---

833 ANOTHER "ACT" ALMOST DUE?

Please take note that several people who have been "friendly" to the present administration in years gone by, were indicted by the late Grand Jury for election irregularities. In brief, they broke the law trying to boost the administration.

Why, even two ladies are among the indicted! Must the fair sex—no longer quite so "gentle" as in other days—be smeared with the mud of rotten politics and an even more rotten administration?

834 And, there's something actually amusing about these election "frauds" if you'll take time to excavate the giggle.

Practically every precinct in which fradulent votes were cast IS AND HAS BEEN DOMINATED BY MOSE BARNETT. And Mose is legging it across the country—ducking hunts.

From what I believe to be good authority, I learn that one of the ladies dragged a pencil's rubber dome across the X opposite names of candidates unacceptable to Mose and deftly inserted an X for the names of those to his and his cohort's liking. Some sixty-three names the lady voted, "'tis said," and the Lord only knows how many more she

would have added to the poll lists if the clock hands hadn't 835
traveled so fast. At any rate "it is reported" that she did her best, she couldn't have done any worse and got away with it.

Will she be prosecuted "vigorously"? I doubt it and I am not alone. Prosecutions in this city have, of late years, been lopsided—either flavored with a savage vindictiveness or lame-duck vigor. Facts have been, to a large extent, lost sight of or deliberately smothered—not by the courts, but by officials presumed by law to present evidence and produce facts.

It is freely rumored that the so-called "election fraud" 836
cases will be nothing new in the line of farce comedies, but merely another act in that continuous affair; that they will not be prosecuted with any degree of severity or great enthusiasm. Whether these rumors are well founded, time will tell, but judging the future by the past, it's better than even money that if any one of the indicted election officials are found guilty, it will be a few of the smaller fry and none of the "higher-ups."

A CHOICE COLLECTION 837

The late Grand Jury returned indictments against a choice collection of Barnett henchmen, though they might not have known it at the time.

Max Golden was indicted by a former Grand Jury but for some reason known, possibly, by my friend the County Attorney, has not been brought to trial! Is it possible that Max Golden's known affiliation with the Mose Barnett gang of gunmen has kept him free of punishment thus far?

And, there's Mr. Arthur Wolk, another loyal Barnett henchman—Wolk's in it, too! In fact, he's really "in"

838 where a lot more of that same gang are going—in Stillwater—doing time for perjury.

A fine collection of patriotic citizens, eh?

A gentleman wrote me a very courteous letter last week (and which I published) in which he protested against my use of the word "Jew" in this paper. I respectfully call his attention to the daily papers in which the names of individuals recently indicted by the Grand Jury were published, and the indictments themselves, and ask him as man to man, were those the names of Scandinavian, Irish, German, French or "Wop"?

839 The pity of it is that Mose Barnett, the leader of these dupes, is free. He ruled them with an iron hand—until the hand of John Law reached out for HIM and then he left them to their fate—just as he left the two young gunmen, under indictment for the shooting of Howard A. Guilford, to THEIR fate.

And, when the yawning gate of Stillwater prison clangs behind them, which it will, their chief, their leader, will be roaming at large—a fat, frightened coward—but free.

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840 "I'd rather take a good drink of whisky than smoke a cigarette," said the old lady emphatically to a co-ed who was puffing away at a Chesterfield.

"Gosh, who wouldn't?" replied the modern college girl.

FRANK'S RECENT "DISCOVERY"

Well, well, if Brunskill hasn't at last discovered that his "buzum" friend, Mose Barnett, is actually wanted by the sheriff's office—not by Brunskill. In his police "Daily Bulletin" (with the heavy accent on the first syllable) Frankie thus wails his woe:

"Big" Mose Barnett, age about 34, 6 ft., 240 lbs., small dark mustache, brown eyes, a real good dresser. Is a Jew. Well known to a number of police officers. Wanted on an indictment in connection with the throwing of acid at the Shapiro Cleaning and Dyeing Co. Indictment in Sheriff Earle Brown's office." 841

You will note in the above that Mose is "well known to a number of police officers" and while Brunskill neglected to mention any of them by name I call your attention to the fact that Mose was no stranger to our chief. In fact, I have intimated in mighty plain English in other issues, that Frankie and Mose were wonderfully good pals. They must have been exceptionally chummy, for no sooner had this paper cracked Mose and Mose's gang on the knuckles, than the chief barks out an order to throttle further expose of the big Jew, by banning the Saturday Press from the streets of the city. 842

If further evidence were needed to establish the solidity of the friendship existing between Brunskill and gangland, I guess we will be able to dig it up before this fight is ended.

The disappearance of Barnett was known to every paper in the city, even the senile old ladies who constitute the daily press knew Mose had taken French leave, but Brunskill didn't acknowledge the "disappearing Jew" until about November first. 843

Brunskill knew that Barnett was wanted by the sheriff's office and yet made no mention of the Jew's escape for at least two weeks after that individual had gone on his memorable "duck hunt."

And then he has the consumate guts to twitter that Barnett is "well known to a number of police officers." Why, not a man on the force is so well acquainted with gunmen

844 and gangsters of the Barnett tribe as Chief Brunskill! He has hobnobbed with them for years. He has held his hand between Mose Barnett and old John Law ever since he became chief of police. FRANK BRUNSKILL, DARE YOU TAKE OATH THAT YOU DO NOT KNOW THE WHEREABOUTS OF MOSE BARNETT TODAY?

Can you place your hand on the Bible and swear that you have tried to apprehend that gangster, Barnett? Are you willing to swear that you had no knowledge of his plan to "duck" and "hunt" for a place—any place—outside Sheriff Brown's presence? Well, here's your golden opportunity:
845 Shove up your right mitt and be sworn.

Of course, I realize that to men of your type, an oath means nothing and you may swear—but you make a sworn statement in denial of the questions I have asked you above and I'll give them front page prominence.

There is a doubt in the minds of the taxpayers of this city as to your ignorance of the Jew's disappearance and I am willing to be fair with you to the extent of giving you an opportunity to defend yourself, or rather give an account of yourself, and you don't deserve fair treatment. You have
846 never given a man a "fair shake" in your life and therefore you aren't entitled to one in this case, but I'm giving you the opportunity to present your denial to "all comers" (except Mose)—a fair opportunity to present your denial to a long suffering public.

Get your copy in early.

WILL BRUNSKILL ANSWER THESE?

Who furnished the scandal theory in the Birkeland case for the Twin City Reporter?

The Twin City Reporter quotes the Minneapolis police

department as its authority for the scandal and as Brunskill occasionally pretends to have a different view, why has the Reporter's statement as to its source of information not been corrected? 847

Does the Twin City Reporter ask Brunskill to read its proof sheets so that he knows what its editors are going to publish?

Does Brunskill recall telling a friend of the Birkelands that he would let the Twin City Reporter publish that story "because it's the truth"?

Did Brunskill tell that same friend that "young Birkeland will get a gun crowded down his throat one of these days"? 848

Does Brunskill know that the autopsy would have disclosed indisputable traces IF Rev. Birkeland's death had been caused by this scandal theory?

Why didn't Brunskill advise the press that the report of Dr. Bell, the pathologist who held the post mortem, showed conclusively that Rev. Birkeland was alive without food or water for probably three days before his death?

Why was the Bertillion man, Mr. Jones, kept entirely out of the Birkeland case? 849

Why wasn't Mr. Jones permitted to go to the apartment where Rev. Birkeland's body was found when a request was made for him by the chiefs of both the Burns and Pinkerton Detective Agencies? And:

Why did Brunskill borrow and lose the only piece of marked laundry found in that apartment? And:

Why did Brunskill revolt against the Attorney General's office taking over the Birkeland case? These—and many more will follow.

850 THEIR SAFE ROOST

Well, if the Burns Detective Agency didn't unearth a lovely block of stolen bonds right here in Brunskill's baliwick on Wednesday of this week. This city is getting to be quite popular with thieves, gunmen, alcohol "kings," pickpockets and other parasites. Here they feel safe to roost—or rob.

And why not? From coast to coast the word has gone out to the underworld that the chief of police of Minneapolis is "safe." He couldn't catch a cold! He gladhands known gunmen, pals around with extortionists, cuddles up to gangsters and "cuts himself in" with proprietors of gam-
851 bling syndicates, so why should gangland fear him? It doesn't.

And, to cap the climax, here comes a gang of bond "brokers" with a bale of "hot" bonds and opens headquarters within gunshot range of Brunskill's office. He knew nothing about it. "His" detective bureau knew nothing about it. Why should they try to learn anything when all they get from their superior officer is abuse from his ex-beer-lashing tongue and the merry he-haw from an asinine press?

The police department is demoralized—the detective bu-
852 reau is the same. Not a man on the force (except the "yes" men who always cluster round a swellhead chief like wasps about a bit of mud) that has the heart to do his duty. He is demoralized, discouraged, disgusted. He has not only lost confidence in his chief but in himself.

And the bond thieves knew all this. So did the Burns Detective Agency for:

When they had their quarry spotted they turned to Sheriff Earle Brown for help. THEY KNEW BETTER THAN TO TRUST FRANK BRUNSKILL. And they were right. What that Court House and City Halls needs more than

man ever needed salvation IS TWO HUNDRED EARLE BROWNS. 853

Oh, you water-blooded citizens, how long before you will WAKE UP? Shake off that lethargy and demand that a change be made in the police department OR DEMAND THE RECALL OF EVERY OFFICIAL WHO SUPPORTS HIM.

Get that lover of gangland out of YOUR employ just as soon as you can legally do so. Demand his resignation of Mayor Leach. Act—don't loaf.

854.

Blinding headlight, synthetic gin and reckless dubs at the steering wheel, are helping along those "who would not live always."

THE SATURDAY PRESS

A WEEKLY "WHO'S WHO AND WHY"

The Northwest's Snappiest Newspaper

Business Office, 240 S. Fourth Street

Two Dollars per Year in Advance

On Sale on News Stands, Everywhere, Every Saturday 855

OUR MOTTO:

Laugh and the World Laughs With You

Grouch, and you Grouch Alone.

HOWARD A. GUILFORD

J. M. NEAR (The Old Man)

Editors and Owners

Application for Second Class Entry pending in the Post Office at Minneapolis, Minn.

Dealers and Subscription Agents wanted—Liberal Commissions.

856 FIGHT OR GET OUT OF THE WAY

Every day someone whines to me, "Near, it can't be done. The gang is too firmly intrenched. The City Hall and Court House reeks with rascality. The gang rules supreme. They are too powerful to be ousted and you will be killed if you don't quit."

That blubbering almost riles me to profanity.

SHOW ME A GANG OF OUTLAWS THAT ARE TOO POWERFUL TO BE WHIPPED BY DECENT, LAW-ABIDING, GOD-FEARING CITIZENS!

857 Pardon my language, but:

Help me get this paper into the hands of Minneapolis taxpayers AND I'LL SHOW YOU HOW QUICK THAT GANG OF RODENTS WILL SCUTTLE FOR OTHER QUARTERS!

Force that ex-beerwagon driver, Brunskill, to keep his dirty hands off this paper's street circulation AND I'LL SHOW YOU A NEW POLICE CHIEF IN LESS THAN THIRTY DAYS.

Don't tell me that Minneapolis citizens CAN'T rid the city of scum and tin-horn gamblers and killers and Yiddish 858 thugs, I KNOW BETTER.

Don't tell me that the gang is too strong to be dealt with BY LAW—that it is more powerful than law—that it IS law in Minneapolis, for I know better.

IT RULES BECAUSE YOUR DAILY NEWSPAPERS HAVE LIED TO YOU. IT RULES BECAUSE THEY HAVE COVERED FOR IT. IT RULES BECAUSE THEY NEVER DARED EXPOSE IT; and it rules because of your, YOUR, indifference, but it doesn't rule because it is more powerful than YOU—the public.

What if the gang IS powerful enough to have me shot

down as they shot my partner? Will that end LAW? 859

If it will, then you aren't far removed from anarchy, from chaos.

If the murder of one or two men WHO DARE STAND UP FOR THE LAW, WHO DARE DEFY GANGLAND AND A BLATHERSKITE POLICE CHIEF, AND WHO DARE DEMAND THAT DECENT CITIZENS BE PROTECTED IN THEIR LIVES AND PROPERTY, if the murder of one or two men, I say, will continue these killers and crooks in power, as you admit they ARE, then you haven't much to boast of and you haven't much more to lose. 860

Ed Morgan, the blackmailing editor of the foulest rag that ever flaunted a filthy page on a news stand; Frank Brunskill, the most pitiful specimen of the genus homo that ever disgraced the office of police chief—these and their cohorts in corruption and crime—have defied, not alone this publication BUT EVERY RESPECTABLE MAN AND WOMAN IN THE CITY OF MINNEAPOLIS! And you tell me that these and their ilk are too powerful to be TAMED BY LAW? You know better.

Listen, friends: I am a fatalist. Today, tomorrow—a 861
year, two years from today, from tomorrow—and what matters it? Kismet.

How, doesn't matter—when, doesn't worry me. Again: Kismet. But:

If MY fate is to be death at the hands of these loathsome swine, of these (loan me a word that will fit them—my vocabulary doesn't contain it) things, so be it. BUT I HAD RATHER BE DEAD THAN RUN FROM OR COWER AT THE FEET OF A DAMNED BLACKMAILING CUR OR A YIDDISH GUNMAN WHO HASN'T THE GUTS

862 TO FIGHT IN THE OPEN or a gang-loving chief who isn't man enough to stand up and take the licking HE KNOWS HE DESERVES.

And, I'd rather feed what flesh there is on my old bones to the buzzards of the air than save it at the expense of the boys and girls of this city—and that's what this fight means—the safety, the FUTURES of your boys and girls.

So, don't come to me with your weeps and moans and wailings that the gang that has ruled Minneapolis EVER SINCE FRANK BRUNSKILL BECAME CHIEF OF POLICE, can't be licked—that it is more powerful than the
863 LAW!

It can—if you are not ALL cowards.

Now, COME ON and let's lick H— out of them AND DO IT QUICK.

If YOU haven't got the courage to fight, then step out of the way and let someone fight who is willing TO fight.

And right here is a good place to disseminate a bit of advice:

If you don't want me to wax profane, DON'T goad me to it by your infernal indifference or by continuously wail-
864 ing at me that gangland is more powerful than LAW.

The only aspiration of many young men is a silk shirt and a pair of elephant pants.

Under present misunderstandable restrictions, it is safest to park your motor car at home.

The millennium is here when a busy man offers a life insurance agent a seat and a cigar.

865 There are a number of easy ways for a man to make a fool of himself—and each one seems the easiest.

JUST ANOTHER ANONYMOUS

Nov. 7, 1927.

Editor Saturday Press
(Please Publish)
Who can guess?

866 Who the Captain of Detectives was who received $200 from the bunco men for notifying them when the Rochester authorities came for them for buncoing a Canadian farmer out of $5,000 in a crooked race horse deal at Rochester?

We think he was a Polack, we're not sure.

Yours truly,
FIVE POLICE OFFICERS.

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?
?
?
?

BUY YOUR SHARE TODAY! 867

I'm the poorest salesman in the world, bar none, but I'm going to sell YOU a share in the most remunerative proposition YOU ever had offered. I'm going to sell you a share IN A CLEAN CITY—your own home town. And, YOU are going to buy that share.

Here's the proposition:

The Saturday Press has started a campaign against the vilest gang of rascals that ever operated in Minneapolis. As a result of its campaign, one of its editors has been shot and the other is almost daily threatened with the same fate

868 —and still the paper appears.

It had scarcely began its expose of this gang of hellions, than your chief of police RUSHES TO THE DEFENSE OF THE GANGSTERS. And the paper still appears.

The police chief illegally barred the Saturday Press from the streets—and still it is being published.

The chief of police JOINED HANDS WITH GUNMEN, KILLERS, GANGSTERS, GAMBLERS AND BLACKMAILERS in a vain attempt to kill the only paper in the city that dared expose conditions THAT ACTUALLY EXIST IN MINNEAPOLIS and in spite of this alliance of
869 underworld scum and a corrupt police department head, the Saturday Press is growing.

One church paper has taken up this fight and is urging members of that denomination to get into the fight—THEIR FIGHT.

Another denominational publication has asked that attention be paid to the allegations—DIRECT CHARGES—in these columns.

Two or three ministers have signified their willingness to co-operate with the Saturday Press. Two or three church
870 organizations have taken steps to throw their great influence behind this paper. The churches are coming in and right here is where you come in:

The Saturday Press has been fought off its financial feet, so to speak, by the apathy of the better element, the lack of finances among its loyal friends and last, but far from least, BY THE CHIEF OF POLICE AND HIS ALLIED THUGS.

I have put this situation squarely up to the business men of Minneapolis and they have ignored the matter. I have carried it to the associations that boast of their devotion to

clean government and who profess to be staunch champions of law enforcement, and they have done nothing except gasp in feigned astonishment or send in a two-cent stamp for five copies, bound in Morocco and delivered by a butler. 871

I have sent marked copies to men who boast of their "civic pride" and I get in return a silence that couldn't be dented with a charge of TNT. And, friends, I'm woefully tired of wasting my time with the class I have mentioned.

THEY DON'T CARE WHETHER A GANG OF KILLERS RULES THE CITY OR NOT, JUST TS LONG AS THEY ARE NOT MOLESTED.

I have battled along alone since Mr. Guilford was shot down by Mose Barnett's killers—brutes who have boasted that they would kill any man in Minneapolis for five hundred dollars!—and I'm not half through. But I'm all through playing tag with these ruffians. I've hung on to the short end of the stick long enough. I'd like to jerk these dirty rats into a court room and FORCE them to loose their filthy hands from this paper AND THE THROATS OF MINNEAPOLIS CITIZENS—but it takes money to do these things, more than I can raise right now. 872

It will cost two thousand dollars to drag these vermin into court AND I WANT THAT TWO THOUSAND DOLLARS. 873

Are there two hundred men and women in this city of almost half a million souls who will raise that two thousand dollars among themselves? Ten dollars each and I pledge you my word of honor that every dime of it will be spent TO RID MINNEAPOLIS OF THE BLACKMAILING TWIN CITY REPORTER RATS AND THEIR GANGSTER CREW and if along with them goes the most contemptible chief of police this city ever had, so much the better.

874 Now, start sending in those cash shares. Don't pay them to some slick-tongued solicitor. BRING OR SEND them into the office. Don't be afraid that a single contributor's name will ever be made public. I'll rot in jail before I'll ever disclose one name. I'm not afraid of this infernal crew of home-wreckers, gunmen and a cockroach chief. My record is clean and if it had not been—if the featherless buzzards could have found one thing in my life upon which they could have hung an indictment, THEY'D HAVE HAD ME PARKED UP UNDER THE CLOCK LONG AGO.

875 I've been a fool lots of times, but a crook, never—and they know it, these biped curs.

Now, friends, start those ten dollar bills rolling in and let's get action. Isn't it worth ten dollars to YOU to have a gang of gunmen, KILLERS, blackmailers, extortionists and crooked gamblers run out of town or rammed into prison?

If I'm willing to take a chance on having my hide shot full of holes by these sneaking whelps, YOU ought to be willing to let ten dollars of your money take a chance with me!

876 Guilford took a chance AND THE GANG THAT YOU ARE AFRAID TO RISK A FEW DOLLARS AGAINST, shot him down in cold blood.

IS IT WORTH TWO THOUSAND DOLLARS TO TWO HUNDRED MEN OR WOMEN WHO CAN SPARE THAT SUM, TO HAVE MINNEAPOLIS RID OF THIS SCUM? If it is, let's get busy and clean house.

If I get shot, some of you pick up the fight where I am shot off and CARRY IT ON THROUGH. Let's clean house in Minneapolis! BUY YOUR SHARE TODAY.

—The Old Man.

When Barnett was chief heeler of the Third Ward and 877
the vote threatened to get away from his candidate, Mose merely acted in the capacity of "Jew-ry fixer" for Leach and his personal friend, Brunskill, that's all. But at that time he never thought of ducking or hunting ducks. He gave all his magnificent attention to seeing to it that HIS candidates didn't get the short count on the Third ward ballots. And now his henchmen (and it seems women, too) are facing a jolt in the twine factory while Mose is shaking the dust of many localities from his number twelves. Such Is life, such is life.

878

A BITTER TRUTH

"We've had a feeling that things were bad enough in our city, but it is nevertheless a revelation to find out how much worse the situation must be.

We can not but bring an accusation against the so-called Better elements in our city. Here is a great number of churches and church people. There can not be any doubt but that if they would they could cleanse the city from much of its filth. They could have done it this spring at the election. But they did not. 879

If thoughtful people, and especially Christian people, can not now be aroused to action, then the outlook is indeed dark.

It has astonished and grieved us more than once to see how that scandal sheet, the Twin City Reporter, could be allowed to be sold from the news stands in the city; it seems that authorities with some sense of morality would have forbidden it long ago. Even the foremost and influential men in the city have for years witnessed this spectacle without being able or willing to do anything about it.

880 However, at last there comes from a rather unexpected source a protest that sweeps away this scandal in a day, because of the information it brought forth—an astounding information about combinations between factions in this city—unheard of and downright dumbfounding revelations. And yet one man nearly lost his life in the attempt to get rid of the scandal.

In the last analysis the accusation must be directed against this one point:

It is the city's own citizenry with church people and ministers at the head which to a terrifying extent, must 881 bear the blame. And in this last analysis also, from them the relief must come."

—(From "Folksbladet" for November 9.)

Every knock on the door isn't opportunity. Most of them are agents of some kind.

There isn't much to see in a small town, but always plenty to hear.

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882 Many people can't see opportunity when it is dressed in overalls.

REWARDING THE FAITHFUL

I wonder how many citizens and taxpayers in Minneapolis actually know how despicably the present chief of police has treated "old timers" who have spent their best years protecting lives and property in this city? Look over the list of names on the police roster and you will find that practically all the "old guard" who knew crooks or who were potential police chiefs have been laid off or summarily dis-

charged. I am not disparaging the new members of the force. I realize that age must give way to youth and I tip my hat in salute to younger men, but: 883

Brunskill has demoted, discharged and disgusted many men who forgot more about police work any ten minutes of their lives than he will ever know. I meet them almost every day, these stalwart old men. Not old, but too old and too manly to suit the Polock ex-beerwagon driver. I could mention if I would, more than a dozen of these men who have quit or been driven out of the department, not because they had bad records, but because in some manner they had incurred the dislike of Brunskill. Not because they were 884 physically unfit to discharge their duties but because they were men who believed in law enforcement, men who were enforcing the law WHEN FRANK BRUNSKILL WAS WEARING A LEATHER APRON AND CLUCKING TO A PAIR OF INTELLIGENT HORSES FROM THE SEAT OF A BEER WAGON!

Talk to them for a few moments as I have done many times, and get THEIR opinion of your chief of police. When you do, you will think my opinion altogether too mild. I cuss occasionally when I think of this dumbskull chief but these 885 old fellows fairly pray in profanity.

And, I'm not betraying any confidences when I tell you one instance of the "loyalty" displayed by the present administration to these former members of the Minneapolis police force:

In one precinct station when George Leach made his first race for the mayor's chair, there were just three officers who dared openly champion his cause—the rest were for his opponent. And today:

These three are wearing civilian clothes. They have been

886 goaded into quitting, been demoted until they resigned in disgust or were discharged for no reason at all. Loyalty? Why, the present administration has never even been loyal to itself!

The nearest it ever approached loyalty to anything was when Brunskill arose in his puny wrath and struck blindly in defense of Mose Barnett, Ed Morgan, "Red" Clare, Jack Bevans and that rascally gang of blackmailers, tin-horns and gunmen, and that was "loyalty" to the contents of the sack these crooks delivered to "Polock Center." THEN he, the "weak sister" of the combination exhibited symptoms of
887 loyalty—to his equals.

Verily the faithful have received their reward from the present administration—by having their careers of usefulness brought to an end.

FOR A LOST CAUSE.

A report reaches me that two young ladies who jerk beer in a joint eagerly avoided by Brunskill and Chawles Gee Davis of the "Slaw Conforcement Egg" are taking up a collection to defray the expense incurred by their lovers, the
888 gangsters who shot Mr. Guilford—Sure, I'm making that statement direct and flat, no skidding here! But it strikes me that they are soliciting funds, though they don't seem to realize it, for a lost cause. Girls, you had as well bid your Kiddish sheiks ta-ta and go chase up another set, for these two bright young sapheads are going to be absent several years. In fact, one or both of you may be grandmas by the time they quit spinning sisal.

You see, it's this way, girlies (sure, I know where you peddle home-brew, though the police department and Gee Chawles don't want to know it) those two birds are stuck

and their Fat Boy friend is taking it on high somewhere in the U. S. He ran out on them when the steam got warm—left them to hold the burlap, as it were. They depended on Mose to "fix it" but he's so busy surrounding himself with distance, that he couldn't fix the differential gear on a wheelbarrow. Sure, he used to let you two snits serve him with "choc" down in the joint where you hang out, but that was in the good old days" when Mose and Frank were real pals, Maggie, or rather when Mose was head shootmeester of the Apaches—before he quit shooting unarmed men and went hunting ducks, if you get what I mean. 889

But at any rate, don't let them kid you that your sweeties are going to rush around the landscape right away. They are not. As I recited a few verses back, those two Yiddish artillerymen are stuck this time. 890

Take the few berries you collect and stuff them in your "hope chest," girls, and then hope—that you'll get real fellows the next time you pick.

Oh, well do I remember,
'Twas along in last November
That I staggered down the street in drunken pride. 891
My feet began to stutter
So I lay down in the gutter—
A pig came by and lay down by my side.
My heart was all a-flutter
As I lay there in the gutter
When a lady passing by was heard to say:
"You can tell a man that boozes
By the company he chooses."
And the gol darn pig got up and walked away!

892 Asked to pray for warm weather so that her grandma's rheumatism might pass away, a five-year-old girl knelt and said: "Oh, Lord, please make it hot for grandma."

"A CALENDAR OF ROMANCE"

Our hero was the common sort, when all is said and done,
He worked his head off daily and was out to get the MON.
The reason for his diligence was common-place, 'tis ture,
He tried to swell his salary so it would suffice for TUE.
And maybe that's the reason why one day he lost his head,
And falling on his knees, he cried, "Oh maiden, wilt thou
893 WED?
He may have thought this sudden, but it seemed not so to her,
She slipped a quick acceptance and said forcibly, "yet,
THUR."
But when they went to keeping house, he feared that he
would die,
For, O! that maiden could neither bake nor FRI.
She could not run a bungalow, or even run a flat,
So on many sad occasions in a restaurant they SAT.
But he forgave her willingly, as man has always done,
894 When she presented him one day a bouncing baby SUN.

—The Joy Messenger.

A chap was arrested for assault and battery and brought before the judge.

Judge (to prisoner)—What is your name, occupation, and what are you charged with?

Prisoner—My name is Sparks. I am an electrician, and I am charged with battery."

Judge (after recovering his equilibrium)—Officer, put this guy in a dry cell.

Surgeon (finishing examination)—I regret to say, my dear man, that another operation will be necessary. 895

Patient—What? Again? Say, Doc, that makes four in about two years. Why not just put on a swinging door?"

If "my friend" Chawles G. Davis wishes to make a real pinch and will call at the Saturday Press office, show his credentials, promise not to doublecross, and a willingness to go outside the punchboard class, I'll bounce him up against a joint that will make him solid with the gentlemen who have been paying him a salary for doing nothing and set him in awfully bad with the gang he and Frank Brunskill "hate" so desperately (and maybe get himself shot, a la Guilford). 896
When are you coming Chawles? Frank wouldn't touch it with a pair of tongs as long as a phone pole—and you won't either when you learn who operates it.

THE DOCTOR'S LAMENT

Last night when others were at rest
I rode about, and did my best
To save some patients called by fate,
From traveling through the Golden Gate. 897
This morning when the news I spied,
I thought they might as well have died:
"Two Hundred Injured in a Wreck,"
"Fan Falls, Sustains a Broken Neck,"
"Two Drown While Rocking a Canoe,"
"Grade Crossing Murders Twenty-two,"
"Fived Killed by Falling Airplane,"
"Three Shot by Moron, Now Insane,"
"Gas Blast Takes Lives of Twenty-three,"
"Two Die 'Neath Falling Apple Tree."

898 All night I toiled to save one life,
And millions die in useless strife.
What can it help to make one well,
While thousands hearken to death's knell?
What boots my little recompense?
Why can't the world have common sense?

—Hyglea.

EXHIBIT 9.

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899 TO ALL NEWS DEALERS! Our hour of "passive resistance" has passed. Display Saturday Press exactly as you do other papers or magazines in your place of business. If you are molested in their sale by the police, refuse to remove them from your display stands and we will furnish the legal talent necessary for a "show down" in the courts. In brief, we will stand back of your Saturday Press sales and will carry your case to the court at our expense. If Brunskill still wants a fight, we'll give it to him. Let's force him into court.

—The Editors.

900

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A "CLOSE-UP" VIEW OF THE CITY HALL

"Big Mose" Tries to "Smart-up" the Chief; But Found No Brains; Chief Claims He Saved Mayor From Jail and Mayor's Buddy Tries to Find a New Chief. How the Lice

Swarmed as in the Days of Egypt, Until They Over-ran the Fixer's Patience. And Some Fodder for Floyd's Mental Silo. 901

Dawn—and the deep purple of the firmament melted, and gave way to the irresistible rays of Old Sol. The sombre colors of night faded out to make room for the colors of a new day—the gold and silver and green (long green) of a loyalty administration. But soon the fiery bolts of Jupiter were shot across a sky which was no longer clear, political meteors crashed and chaos ruled in Polock Center, for a 902
greasy Jew had soaped the tracks and a hand car was running wild.

The un-Holy Trinity, Leach, McCormick, and Brunskill, had come to grips. The golden fleece, for which Ulysses risked his life, lay among the pelts of the many suckers who had been skinned by the legions and cohorts of the powers that reign in the local realm of Pluto, and Big Mose, the skulking steel-vested gunman who hides to ambush his unarmed victim, was hunting "gelt." Brunskill, to show his undying appreciation to Mose for keeping bank robbers from robbing banks in Minneapolis, had cut Mose in on protected 903
gambling. And Mose, to show his undying appreciation to Brunskill for cutting him in on gambling, put the bank robbers to work hauling alcohol by truck loads, and 'tis hinted about headquarters that he cut the chief in on that.

Be that as it may, the lightning hit, for McCormick is and was a mighty good business man. His office was appointive and not elective. His duty it was to fetch to the "City Hall" twenty-five per cent of the gross "rake-off" on all gambling which operated in Minneapolis, from the humble policy game which cleans up a thousand a week to the big crap game with

904 the hundred dollar limit which cleaned up between three and five thousand a week. The crap game sailed merrily for four years and the policy game is still sailing and from the present outlook will get into port ahead of Lipton's new yacht.

Big Mose Barnett's game was opened at Plymouth and Washington. A nice crap game with a beautiful clientele—Barnett's Third ward Yid henchmen who vote for Leach and Olson, both during and after the regular voting hours.

But the rub came on the cut. McCormick got nothing from Big Mose's game, and he insisted that if he was going
905 to handle gambling in Minneapolis he would handle all of it and not be shuffled out of the deck by a clique of Brunskill's pet Jews. And there matters stood. Big Mose was a constant visitor at Brunskill's office, but undoubtedly nothing much was passed except time, as there are two officials and one ward heeler who have to be taken care of in any Third ward gambling venture, and the regular "City Hall" cut would be very much out of order. How about it, Pete?

Brunskill stood pat. He needed his bosom pal, Big Mose, because the latter was keeping Minneapolis free from crime for Brunskill, and helping to build little Frankie up as the
906 best police chief in the United States. But he overlooked a bet—a most important bet—as he would rather be police chief than be right. And police chiefs are appointed every two years. The 1925 election came along. Leach announced to a great many people that he would not re-appoint Brunskill. In fact, he very elegantly expressed it as follows: "I wouldn't appoint that dirty blankety blank blank if he were the last man on earth." Leach was re-elected. Shortly after his election one of his closest political buddies came out of his office and met County Commissioner George Mallon in the City Hall corridor, and offered him the job of

chief of police if he would take it.

907 Leach held up the appointment of a chief of police. Brunskill mooned around like a jilted lover for six weeks. But he laid down completely, and the twenty-five per cent cut from Big Mose's game started in through the regular channel—that is, that part of it that the Jews couldn't count the "City Hall" out of. On August 10th Leach re-appointed Brunskill, which was generally expected around the Court House where it was freely stated that the Mayor didn't dare do anything else since he had a vituperative little cut-throat to deal with, one whose vindictiveness and spite would stop at nothing, even at a complete confession. 908

And then the comedy. Big Mose was burned at little Frank. He waved his arms and howled as only a greasy ganef can howl, "Wat th'—no brains, no brains. I tried to smart that guy up and make a man of him, but wat th'—." Coolness developed between the bosom pals, but it wore off.

But what of Frank and his Mayor? Folks about town pretty generally understood that there was bad blood between the Mayor and his chief. Brunskill explained it all to several friends of the Mayor, to the complete satisfaction of everybody except the Mayor. Brunskill's explanation was 909 truly Brunskillian, and as follows: "Well, you know how the little fellow is—he can't say 'No.' Every heel in town went in to him and asked to open a pig here and a game there, and a joint somewhere else, and he told them all they could go wide open. When he told me to let them ride I refused to stand for it, and he got sore. As a matter of fact I had to save the Mayor against himself or he would have gone to jail before he got through. He is sore at me now, but some day he will appreciate what I have done for him."

Which is a fine way of squaring the Mayor, aintchu?

910 About the same speed as the little fellow showed when he was fighting the Mayor and McCormick over Big Mose! All the "shonnickers" in town got themselves set in with the Chief through Mose, and friends of old time gamblers who had reputations for square gambling went to Brunskill to intercede for the old timer, who, by the way, would be a white man. "Why, certainly," the best chief of police in the United States would reply, "I haven't anything against——. I was surprised when McCormick handed in the list of those who could go that his name wasn't on the list. You know, McCormick is handling all that for the Mayor and I don't
911 have anything to do with it. You see McCormick and tell him everything is all right with me if he wants to let your friend open." But the world do move, and times do change.

The year of 1927 arrived, and the Mayor really didn't have very many sound reasons why he should be re-elected. The blankety blank blank he wouldn't re-appoint two years before, became the best chief of police in the United States because there had been no bank robberies in the city during his reign, and Leach promised to re-appoint this prize if the public would vote for him. The daily papers took up the
912 cry and eulogized Brunskill. The daily papers—some of whose staffs were on the payroll of the gambling syndicate—elected Leach. But Brunskill's head was so out of proportion that his arm wasn't long enough to scratch his ear. McCormick was pushed off the table and Big Mose came into his own. Brunskill was back to his first love, and his last.—"There will be no gambling in Minneapolis that Mose isn't in on," was the edict from the lips of the best chief of police in the United States. And Big Mose cut himself in for twenty-five per cent of the big Twin City Reporter hundred dollar limit crap game, and another twenty-five per

cent for the "City Hall;" moved the game right uptown to 913
818 Hennepin avenue, and visited the office of the police chief nearly every morning, until the Saturday Press refused to accept a weekly envelope from gangland, and hit the crap game with a squirt of black ink, which resulted in the shooting of one of the editors and the banning of the Press from street sale by Brunskill.

McCormick cut himself out of the circle. As he said himself, "I'd like to be a good fellow and do what I can for the boys, but I won't deal with a lot of lice. It was bad enough when Brunskill put Bevans and Morgan in the lineup, but from that time on every time the deck was shuffled there were 914
a lot of new cards cut in, and I am out."

In concluding it will be apropos and very pertinent to suggest that the County Attorney scan these lines closely that he may realize that the public at last knows what his contribution to the office of police chief has accomplished, with no effort on his part to prosecute his buddy and friend, Brunskill, as he did the predecessor, Jensen—to make room for Brunskill.

DEMORALIZING OUR POLICE FORCE 915

Mayor Leach Suspends Patrolman for Tagging Mayor's Car, Then Reinstates and "Delivers Lecture on Courtesy." Is Leach Immune From the Law Bill Jones Is Forced to Obey? Can a Hans Schmit Be Fined and a Leach Feted for Violation of the Same Law? If so, Why?

In other issues, I have called attention to the demoralization of the rank and file of our police department. I have charged that the MEN dare not obey an order lest [illegible] obey

916 ing they offend one of their superior officers or a "sacred cow" of the administration and find themselves minus a job or in serious trouble. The favorite pastime of the brainless wonders at the head of our present administration, police and executive, is discipline and "demotion."

A captain in the morning, a lieutenant at noon, a sergeant at evening and a harness cop at curfew hour is the favorite recipe.

But it remained for our Colonel-Mayor to demonstrate the full depths of demoralization and the cause thereof.

917 On Saturday of last week the patrolman on duty at Memorial stadium during a football game was instructed to tag every car left in a nonparking zone. He wasn't given orders to tag this car and slip that bus. He was told to tag ALL cars left in nonparking zones and being a good officer, he obeyed orders.

Our mayor is a football enthusiast and he "took in" the game. He also left his car in a nonparking zone.

"His" subordinate, under orders from his superior, tagged the mayor's car. And what happened?

A lot of things.

918 The chief executive of this city didn't take kindly to the invitation that tag extended him—to call at the traffic court the next morning and stand in line with several hundred of his "subjects," then pay his fine. Not at all.

He surged with a holy (!) ire. He would "discipline" the officer who dared do his duty and he did. HE ORDERED THE PATROLMAN SUSPENDED FOR TEN DAYS!

Suspending an officer for ENFORCING THE LAW!

Is George Leach any better than Ole Olson? Has his car any more right to stand in a prohibited spot than Hans Schmit's? Is George Leach, mayor of this city, through a

run of luck and lack of judgment on the part of the voters and taxpayers, any less subject to punishment for a violation of a law than old Bill Jones? 919

If Leach can violate a law, why can't Ole Olson, Hans Schmit and Bill Jones? If Leach violates it, what right has he to expect the balance of us to obey it? But he does—that's the brazen feature of his act.

A policeman, sworn to uphold, obey and enforce the law, does his duty. He doesn't stop to inquire the identity of the violator but proceeds to obey orders. He sees a car parked in a nonparking zone and tags it. It happens to be the mayor's private car (was it choo-chooing along on city gas?). He finds himself a copper without a job. For enforcing a law! 920

A ten days' suspension from duty, without pay, for enforcing the law against the MAYOR. He should have been given a medal. Instead he won ten days without pay.

Who is this man Leach, that he sets himself above the law? He blats of "discipline" BUT HE SHIED AWAY FROM IT WHEN THE LAW SOUGHT TO DISCIPLINE HIM FOR DISOBEDIENCE OF ORDERS, for he was under oath to obey the law—orders. 921

And, when he had issued the order to suspend the officer from duty, he leaves the city for a time. He wasn't concerned about the man's family, his finances, his reputation as an officer. Leach's pride had been touched—and pride's a great thing, a vast monument to small mentalities. If his pride had not been "hurt" he could have done as is done every day—had the tag torn up and the incident would have been closed. But, no. A subordinate must feel the iron hand of discipline. If discipline is such a wonderful tonic, let's have more of it. LET'S APPLY IT TO OUR MAYOR, TO

922 OUR CHIEF OF POLICE AS WELL AS TO OUR GANGSTERS. If it's a great tonic, LET'S MEASURE OUT A DOSE FOR ALL OUR OFFICIALS.

While the mayor was out of the city (I believe he was down at St. Louis attending a convention of business men who are endeavoring to pull a snag or two out of the Father of Waters' head or neck) several of the local business men and an alderman who felt that the doughty colonel's "disciplinary measures" had been stretched a bit too far, wired him to that effect and not to be outdone in "wiring" he rewired a message to reinstate the policeman and that he would attend
923 to the case upon his return. If that wouldn't shake your political tree of faith, I don't know what would!

The mayor remains away until he gets ready to return and then on Wednesday the daily papers inform us that he "delivered a lecture on courtesy" to the offending (to him) copper. Just where the mayor gets that "courtesy" stuff is a puzzle. Assuredly not from "the best chief of police Minneapolis ever had" and certainly from none of his numerous "yes" men. Had he been even fair, he would have left the patrolman on duty until his return, without having humili-
924 ated him with a ten days' suspension and its attendant publicity and then delivered that lecture on courtesy.

The mayor, to quote from one of the daily papers, has "been battling and proposes to continue to battle to obtain courtesy and consideration for the public from members of the police department." If the fiery official will permit me, I would like to suggest that he inject a few square yards of that concoction into Brunskill's private offices. That worthy needs all Leach can spare.

And, further: "I do not propose to let any policeman set themselves up as czars." O, tempora! O, mores! O, pip!

Clap a stopper on your jaw-tackle, George, you make us all sick. 925

Where do you get that "czar" stuff? From McCormick? Maybe from Brunskill?

Well, you stuck your flivver in a hot spot, didn't you? And you found a "please report to Capt. Hart" pasteboard decorating its steering wheel, didn't you? And, you knew the parking laws, didn't you? Well, why didn't you take your tonic like a little man?—like you expect the balance of we saps to take OURS—with a grin and a fine.

The trouble with the present administration is that it is composed of too many puny czars—twenty-two caliber in- 926
tellects flopping around in a ten-gauge job.

There's nothing but demoralization in our police department, in our detective bureau, in the law-enforcing branches of our city government—there can be nothing else expected.

A few weeks ago, Brunskill lines up "his" detective bureau MEN against the wall, calls in all available newspaper men to witness the spectacle and then proceeds to deliver a "lecture"—berate men beneath him in rank and a thousand miles above him in intelligence. And then the burro-brained brag- 927
gart expects the public to have confidence in HIM! He expects those men to have respect for him! He expects them to have respect for the law!

The MEN file silently out—disgusted, disheartened, discouraged. Who wouldn't be?

The mayor parks his private car in a prohibited spot and an officer, until then imbued with a sense of duty, obeys orders and tags the car. He has no means of knowing that it is the chief executive's car. Possibly it wouldn't have made any difference had he known. Wasn't the law PRESUMED to be impartially applied! How did he know that

928 that particular car wasn't a test car—placed there to test out his efficiency? It might have been "planted" for the purpose of finding out if he were alert. At any rate, he obeyed orders and the law and tagged the mayor's car.

Had he failed to do his duty he might have been suspended for more than ten days. He might have been given Brunskill's favorite—demotion. If he couldn't be demoted far enough or fast enough, he could be fired. O, sure, he could have carried his "case" to the snivel service—and carried its remains out again. He wouldn't have been the first officer to have done that trick. And, the mayor:

929 Well, he didn't improve much on Brunskill's tactics. He suspends the officer and then when he cools off a trifle and feels the pressure of aldermanic power on his shoulder, he relents and reinstates—by wire. Then, when he returns he delivers a lecture on "courtesy" to A SUBORDINATE WHO DARED OBEY ORDERS.

Is it any wonder that gangsters prey almost unmolested upon Minneapolis citizens? Is it any wonder that thugs, thieves and worse, rendezvous in this city? Is it any wonder that gunmen associations flourish here when the heads
930 of our police department, themselves, destroy the morale of the rank and file—themselves flout the law?

Is it any wonder that bond thieves feel that Minneapolis is a "haven of refuge" when our police heads set examples of law-defiance? Is it any wonder that theaters were bombed, business establishments wrecked, homes blasted by terrorists without an arrest of consequence being made by our police or detective forces? No wonder at all. The MEN were demoralized. They dare not obey an order lest they jeopardize their job. And men must eat—even policemen and detectives.

You can't have efficiency in the ranks UNLESS YOU HAVE EFFICIENCY AT THE HEAD and we haven't got it in Minneapolis. 931

You can't expect the rank and file of the police department to obey orders and enforce the law, when they see their superior officers disobeying the law and punishing MEN for obeying orders.

And that's the condition that exists today in this city: Demoralization, disgust, and petty czars. No wonder thieves guffaw when threatened with arrest in Minneapolis. No wonder gunmen stalk their victims on our streets. No wonder bootleggers ply their trade openly. No wonder Virtue 932 hides and Vice flaunts her crimson scarf in every quarter of the city. No wonder—nothing to wonder at—except that no more crimes are committed and so many criminals are caught.

"My wife has been using a flesh-reducing roller for nearly two months."

"And can you see any result yet?"

"Yes, the roller is much thinner!"

933

ANOTHER SNEAK GAME GOING OUT

Perhaps Chief Brunskill doesn't know it, but there's a crap game "sneaking" at 1301 Washington avenue north. But again, perhaps, the chief DOES know it but is more interested in the 25 per cent rake-off than he is in closing the doors. Eh, Francis?

This particular game is chaperoned by a gent variously known as "Red" Golden and "Cockeye" Golden and he has the reputation of being so crooked that he wears a mitten on one hand to keep from cheating himself when he shifts

934 streetcar tokens from one pocket to another.

His "business cards" remind the recipient thereof that Herr Golden's frolicking cube game is easily located when one sees the "sign of the wooden Indian."

That's alright, Golden, you can park that basswood warrior in the basement, 'cause you ain't goin' to need it no moah. You and your duck-faced assistants are done. Just go pick out a shovel to fit your size and start shoveling snowballs. You're going to work for a living—you and your Kike pals—from this time on or go through the winter on short rations.

935 Brunskill isn't wide enough around the waist nor high enough above the chin, to protect your crooked game. Scat! —you've just heard the curfew sign to quit. Now, you try to sneak a game in some other location and you'll understand what the workhouse superintendent means when he yells "dig in"!

Don't start getting "tough" for you aren't tough enough. Get me?

—The Old Man.

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936 Patient—Why, this pill's only about the size of a pinhead! What is it?

Nurse—It's a headache tablet for you, sir.

A careful driver is one who can wear out a car without the assistance of a locomotive.

TEE-HEE THIS ONE WAY!

I sincerely regret that our young county attorney has seen fit to grow wrathful at my freely given advice in last week's issue. I meant it in the most kindly spirit. Perhaps

my words were ill-chosen, but I am not to blame because my education was neglected and my vocabulary cramped. 937

However:

There seems to be a general, though erroneous, impression that criticism of a public official's acts is prima facie evidence of treason on the part of said critic. Quite the reverse.

Gentlemen who have been selected by a majority of the voters to represent the entire electorate are presumed, like Caesar's wife, to be above suspicion. A presumption, only.

There has been a growing up in this locality a fear, nameless and therefore the more dreaded, of criticising any public official. An intimation has been broadcast that honest criticism of certain elected gentlemen (and appointed too, for that matter) is sure to beget trouble; that it is better and much safer to ignore the failings of these gentlemen than to call the public's attention to their shortcomings. 938

The private life of any official is none of the public's business, but his OFFICIAL life is absolutely everyone's business—therefore: Without malice, but actuated solely by a desire to set our official house in order:

There have been several "gun fights" on the streets of this city within the past few years and if there have been any convictions of killers, we have failed to locate them, with one exception and that one conviction later resulted in the killing of the killer, who seems to have been affiliated with the wrong faction. 939

Major crimes are presumed to come under the jurisdiction of the county attorney's office. In short, it is the duty of the county attorney to present evidence of crimes committed, as well as secure it, to the grand jury and assist that body in securing an indictment when evidence of a crime is suffi-

940 cient to warrant an indictment.

Just a few days before Mose Barnett's gunmen shot down Howard A. Guilford just OUTSIDE the city limits, but in Hennepin County, a gang of gunmen invaded the business place of the Shapiro Brothers and, after beating Mr. Shapiro over the head with a heavy gun, proceeded to destroy his stock of goods with a powerful acid.

No arrests were made. There have been few arrests made by the police since Frank Brunskill has been chief of police —few arrests except for minor crimes. There were none made in the Shapiro case until AFTER Mr. Guilford was 941 shot and Sheriff Earle Brown (not Chief Brunskill) arrested two "Sheeney" gunmen and tossed them in jail.

Mr. Samuel Shapiro had gone to the county attorney's office prior to the shooting of Guilford and had told his story to the C. A. and had in turn been informed that whenever he was ready to go before the grand jury and present his story to that body of men, he would be given the opportunity, but:

Mr. Shapiro was NOT ORDERED BY THE COUNTY ATTORNEY TO APPEAR—he was told he could appear!

942 When the gunmen had been arrested for the shooting of Mr. Guilford and their pictures had appeared in the daily papers, Mr. Shapiro promptly identified them as the men who had forcibly entered his store a few days previously, and after beating him over the head with a gun, had thrown acid over his stock.

But even after this positive identification, Mr. Shapiro was not ordered to appear before the grand jury.

As soon as Mr. Guilford had recovered sufficiently to use the phone placed at his bedside at St. Barnabas hospital, he called Mr. Olson, the county attorney, at his home and asked

that gentleman to stop at the hospital the following morning for a talk. Don't overlook this fact: 943

THAT UNTIL MR. GUILFORD PHONED OLSON TO COME TO THE HOSPITAL, THE COUNTY ATTORNEY HAD OFFICIALLY IGNORED THE ATTEMPT UPON GUILFORD'S LIFE BY THE TWO YOUNG GUNMEN.

He had sent none of his numerous assistants to the hospital to secure a statement from what then appeared to be a fatally wounded man. It was his DUTY to have done this. I am talking about OFFICIAL DUTY, now, in this, not religion, not political affiliation, not creed, but OFFICIAL DUTY! 944

When the county attorney called the following morning, he was asked by Mr. Guilford what, if any, action he had taken in the Shapiro case, in view of the positive identification by Shapiro AND THREE ASSISTANTS, of the two young fellows then held on the charge of shooting Guilford.

Mr. Olson indicated that Mr. Shapiro was a bit "too flighty," that his identification of the two gangsters was not sufficiently positive, but he neatly avoided the fact that the identification of the man by Shapiro was backed by the positive identification of three other witnesses. And the 945 indictment was not forthcoming.

One of Mr. Olson's assistants told me when I spoke to him of the Shapiro case, that Mr. Shapiro's story varied slightly—that his identification was not quite positive enough and he, like his superior, shrugged his shoulders and changed the subject.

I called upon Shapiro, got his story, verified it and published it. There was nothing stirring. Then, after talking the matter over with Mr. Guilford, I wrote a letter to the grand jury, calling their attention to the Shapiro case, and

946 two days later published the letter in the Saturday Press.

Within twenty-four hours after the letter got into the hands of the grand jury, that body was in action and the indictment of Mose Barnett, chief gunman, the two gangsters and another Jew followed quickly.

And here's something that requires an explanation:

Every week during the life of the Saturday Press, I had mailed a copy to every member of the grand jury—about half, to individual members addressed to their homes and the other half addressed to the grand jury room.

947 A member of that grand jury informed me later THAT HE HAD NEVER RECEIVED A SINGLE COPY SENT TO HIM AT THE GRAND JURY ROOM and he also informed me that at least one other member TO WHOM I HAD SENT A COPY EACH WEEK TO THE GRAND JURY ROOM ADDRESS, HAD NEVER RECEIVED A SINGLE COPY.

Someone assumed the responsibility of intercepting those copies SENT THROUGH THE UNITED STATES MAIL. And if tampering with the mail isn't dangerous business, then cracking dynamite caps with a tack hammer is fit sport 948 for the infant son.

The young county attorney is reported to me to have said that the indictment against Ed Morgan, editor of the Twin City Reporter, is "eight years old." Whose fault is it that it is that age?

What right has the county attorney to hold back an indictment against ANY law violator for eight years? If a crime was committed eight years ago and an indictment returned at that time, why was not the case brought to trial and the culprit either convicted or exonerated? In justice to the accused, if for no other reason, HE SHOULD HAVE

BEEN ACCORDED HIS CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL. Is the county attorney setting aside men's Constitutional rights? Bring that case to trial, Mr. Olson. I want to see you in action against one of Brunskill's pets and Mose Barnett's partners. 949

I am crowded for space this week and the printer informs me he has no rubber type, but in closing I want to say this:

The last grand jury was composed of men (and one lady) who were willing and anxious to do something besides fritter away their time and the taxpayers' money -BUT THEY WERE HAMPERED AT EVERY TURN, and there's just one official in the court house who has the power TO hamper. Your guess is exactly right. 950

The present grand jury must have been considered fairly safe, FOR THE BARNETT-ED MORGAN-"RED" CLARE GANG WERE PREPARED TO OPEN UP A CRAP GAME AT THEIR OLD ADDRESS—208 11th avenue south—as soon as the former G. J. had been discharged—WHEN THE SATURDAY PRESS SPOILED THEIR PLANS BY EXPOSING THEM TO THE PUBLIC.

One of the present grand jury has already freely expressed his personal opinion of one of the editors of this paper and in language that plainly indicates that anything appearing in this publication will receive no consideration whatever—at least by this one member of the present grand jury. 951

That is satisfactory to both Mr. Guilford and myself. WE AREN'T FISHING FOR COMPLIMENTS—we're out for results. And, gentlemen, we're going to get them and in order to get them, WE ARE GOING TO ASK TO HAVE A SPECIAL GRAND JURY IMPANELED AND HAVE THAT BODY DO A THOROUGH HOUSECLEANING JOB FOR THE TAXPAYERS OF MINNEAPOLIS. Now,

952 laugh that one off.

And I guess while we're at it, we will have Uncle Samuel investigate the apparent interception of several pieces of third class mail. Quit giggling, boys, this "ain't no time tew laff—this air a solem okashun."

GOING TO?

I have it upon authority more or less reliable, that friend Chawles Gee Davis, chief blowmaster of the Law Enforcement League, and "some business men" are going to take legal action against me in the "future."

953 And what in the world could I have done to thus irritate the super-sensitive epidermis of Chawles and "some business men"? What kind of "business" are these men engaged in that mild criticism of the elongated one fills them with an itch to bat me dizzy with a legal sap? I presume time will tell, just as it babbles aloud other dark secrets.

But I have a hunch that these unjovial fellows have overestimated Chawles' fighting ability. Chawles detests licking a postage stamp so much that "'tis said" he steams 'em on.

I recall a few years back when I inadvertently mentioned
954 Davis' name in the same column with a colored lady, the chocolate drop sailed into the office in the Masonic Temple where I held forth, and demanded that I apologize in my next issue for the "insult." I really felt that I HAD wronged her, so tendered the apology. "Mistah editor, Ah bin called most eve'thing an' Ah never felt 'sulted befoah," she said wrathfully, "but when you-all done mention my name in 'long wif dat man, Davis, Ah suah felt 'sulted an' you please 'pologize." I did.

But, if Chawles is anxious to tie into me, legally or otherwise, the game is his. If it's a licking in court that he aches

for, he can have it. But if he's just frisking around to find out what I really think of him and his tactics, he'll have to make some arrangement with the postal authorities to have the present stringent regulations suspended—I can't keep within them and do him justice. Fix it with Uncle Sam, Chawles, and I'll accommodate you. 955

I made Brer Davis a fair offer in last week's issue. I offered to lean him up against a joint that both he and Brunskill have laboriously avoided for numerous years and all I asked of Chawles was that he refrain from use of that well-known "double cross," that he show a willingness to "go" and his credentials. If that isn't a fair offer, then I wouldn't know one if I saw it right in Chawles' official portfolio. 956

He's a joke, but if he and any of his "business men" friends are anxious to start libel or any other sort of an action against the "Old Man" personally or the Saturday Press, the door's wide open. He can start—but he won't finish.

TWIN CITY REPORTER

The first issue of the Saturday Press announced a determination on the part of its editors and publishers to crush the Twin City Reporter. We have been content to see it ordered from street sale and public display, and to spend the time checking up on extortions committed by its editor, Ed Morgan. We have taken no other action, as we do not believe it worth while to secure indictments against this human louse, if the present County Attorney is to have anything to do with the indictments, or the shunting of evidence away from the grand jury. The last grand jury that secured enough evidence to indict was sitting seven years ago, and the County Attorney hasn't had time to prosecute since! The 957

958 case still stands for trial.

Get this, Morgan, and pull in your neck a little—when you read in the papers that we have applied for a special prosecutor and a special grand jury, make up your mind that you are one gondola about to be scuttled, and you're going over for so long that you'll never be able to serve out your sentence—you'll have to do as much of it as you can and call it square.

There is no compromise—there can be no fix. We are going to carry out all the provisions of our first announcement, and we will walk rough shod over the face of any
959 public official who attempts to thwart—big or little makes no difference.

We are ready now with enough to settle Mr. Morgan et al under the Minnesota Baumes law for life, but we are anxious to do the job so well that there can be no question. Will all of our readers make it a point to slip us any information in their possession regarding extortions practiced against themselves or friends. We will treat the matter confidentially, and will give no publicity of any nature to the communication. And when we are ready to start the
960 avalanches, our readers have our promise of a termination to the Twin City Reporter and the Brunskill-sponsored gang of outlaw Yids and cheating gamblers.

IN A FEW MINUTES, BOYS

Several newspaper boys in various corners of the state are growing fretful because Schall's slogan sheet, the Minnesota Leader, is percolating through the mails under the second class privilege.

The Long Prairie Leader pipes up with, "Is it because Senator Schall is able to save himself a large postal bill?"

Well, if the editor of the L. P. Leader was half as well acquainted with Schall's "saving" career as the "Old Man" hereof, he wouldn't be asking that querulous question but would swing out with the answer. 961

Schall's first name should be "Frank," if you don't get too high above my meaning. He has the "franking" habit—has had it for so many years that it's chronic with him now. He can be cured of the irritation only by weaning him from official contact with the opportunity to "charge it to Jones."

When Tom was a mere M. C., he lost more sleep trying to think up things to "frank" through the mails than he ever did trying to think up an excuse for habitually voting for measures the people didn't need but got. 962

He has sent enough campaign "literature" through the mails to swamp a battleship. His "extension of remarks" alone would fill a North Dakota elevator from floor to shingles and I can see no reason why his elevation to the Senate should hamper his "frankness!" It apparently hasn't.

The Minnesota Leader is a joke, just as practically all of Schall's political career is a joke. The item of expense doesn't worry the blind senator—the people pay it all. 963

But while the scribes are cooling their peeve at the two Toms, they might ponder this one:

Who paid for the quarter of a million copies of the September 2nd issue, sent broadcast over the state? I have it on very good authority that no one did.

And by the way, just what qualifications has Tom Schall that ten thousand other Republicans in this state haven't got? The Saturday Press has a few minutes more work cleaning up the local situation and then it will devote a bit of space to Schall's cackle rag—the Minnesota Leader.

964 Some folks claim that the surest game is the "policy" racket. How about it, Frankie?

She—I see you have a cold sore on your lip.

He—Yes, I thought I could keep it from you, but I guess I can't.

THE SATURDAY PRESS

A WEEKLY "WHO'S WHO AND WHY"

The Northwest's Snappiest Newspaper

965 Business Office, 240 S. Fourth Street

Two Dollars per Year in Advance

On Sale on News Stands, Everywhere, Every Saturday

OUR MOTTO:

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Grouch, and You Grouch Alone.

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J. M. NEAR (The Old Man)

Editors and Owners

Application for Second Class Entry pending in the Post Office at Minneapolis, Minn.

966 Dealers and Subscription Agents wanted—Liberal Commissions

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FACTS, NOT THEORIES

"I am a bosom friend of Mr. Olson," snorted a gentleman of Yiddish blood, "and I want to protest against your article," and blah, blah, blah, ad infinitum, ad nauseum.

I am not taking orders from men of Barnett faith, at least right now. There have been too many men in this city and especially those in official life, who HAVE been taking orders and suggestions from JEW GANGSTERS, therefore

we HAVE Jew Gansters, practically ruling Minneapolis. 967

It was buzzards of the Barnett stripe who shot down my buddy. It was Barnett gunmen who staged the assault on Samuel Shapiro. It is Jew thugs who have "pulled" practically every robbery in this city. It was a member of the Barnett gang who shot down George Rubenstein (Ruby) while he stood in the shelter of Mose Barnett's ham-cavern on Hennepin avenue. It was Mose Barnett himself who shot down Roy Rogers on Hennepin avenue. It was at Mose Barnett's place of "business" that the "13 dollar Jew" found a refuge while the police of New York were combing the country for him. It was a gang of Jew gunmen who boasted 968 that for five hundred dollars they would kill any man in the city. It was Mose Barnett, a Jew, who boasted that he held the chief of police of Minneapolis in his hand—had bought and paid for him.

It is Jewish men and women—pliant tools of the Jew gangster, Mose Barnett, who stand charged with having falsified the election records and returns in the Third ward. And it is Mose Barnett himself, who, indicted for his part in the Shapiro assault, is a fugitive from justice today.

Practically every vendor of vile hooch, every owner of a 969 moonshine still, every snake-faced gangster and embryonic yegg in the Twin Cities is a JEW.

Having these examples before me, I feel that I am justified in my refusal to take orders from a Jew who boasts that he is a "bosom friend" of Mr. Olson.

I find in the mail at least twice per week, letters from gentlemen of Jewish faith who advise me against "launching an attack on the Jewish people." These gentlemen have the cart before the horse. I am launching, nor is Mr. Guilford, no attack against any race, BUT:

970 When I find men of a certain race banding themselves together for the purpose of preying upon Gentile or Jew; gunmen, KILLERS, roaming our streets shooting down men against whom they have no personal grudge (or happen to have); defying OUR laws; corrupting OUR officials; assaulting business men; beating up unarmed citizens; spreading a reign of terror through every walk of life, then I say to you in all sincerity, that I refuse to back up a single step from that "issue"—if they choose to make it so.

If the people of Jewish faith in Minneapolis wish to avoid critcism of these vermin whom I rightfully call "Jews" they
971 can easily do so BY THEMSELVES CLEANING HOUSE.

I'm not out to cleanse Israel of the filth that clings to Israel's skirts. I'm out to "hew to the line, let the chips fly where they may."

I simply state a fact when I say that ninety per cent of the crimes committed against society in this city are committed by JEW gangsters.

It was a Jew who employed JEWS to shoot down Mr. Guilford. It was a Jew who employed a Jew to intimidate Mr. Shapiro and a Jew who employed JEWS to assault that
972 gentleman when he refused to yield to their threats. It was a JEW who wheedled or employed Jews to manipulate the election records and returns in the Third ward in flagrant violation of law. It was a Jew who left two hundred dollars with another Jew to pay to our chief of police just before the last municipal election, and:

It is Jew, Jew, Jew, as long as one cares to comb over the records.

I am launching no attack against the Jewish people AS A RACE. I am merely calling attention to a FACT. And if the people of that race and faith wish to rid themselves of

the odium and stigma THE RODENTS OF THEIR OWN RACE HAVE BROUGHT UPON THEM, they need only to step to the front and help the decent citizens of Minneapolis rid the city of these criminal Jews. 973

Either Mr. Guilford or myself stand ready to do battle for a MAN, regardless of his race, color or creed, but neither of us will step one inch out of our chosen path to avoid a fight IF the Jews want to battle.

Both of us have some mightly loyal friends among the Jewish people but not one of them comes whining to ask that we "lay off" criticism of Jewish gangsters and none of them who comes carping to us of their "bosom friendship" for any public official now under our journalistic guns. 974

Weather forecast—Stormy, with lots of heat.

FOR FRANK'S PERUSAL

Frank Brunskill wants the heat pulled off his precious self. He demands that McCormick get things "fixed up," etc. Frank—get this through your dome. Nobody can fix anything except you. And here is what you will have to do:

1. See that every one of the thousands of dollars extorted by the Twin City Reporter is returned. 975

2. Return to every victim the thousands of dollars lost by them in the gambling house you fostered and protected at 208 11th avenue south, and 818 Hennepin.

3. Return the good name of those who stole money and lost it in your gambling hell, and went to prison for it.

4. Send out and arrest the many Yid thieves and gangsters of Big Mose's stable who were arrested by your department in the commission of crime, and were

976 ordered released by you.

5. Get down to your proper station in life, and crawl out of the police department for once and for all time.

These, Frank Brunskill, are the terms on which everything can be "fixed up" and the heat taken off you. You state that you will stand for anything to pull the heat. Here's your tip.

—The Half-Shot Editor.

A SECOND DEFI

977 It has been tipped off to the Press editors that an effort will be made to "knock off" Mr. Guilford before he has a chance to testify against the pair of babies now in the county jail, charged with his shooting on September 26th. "Gil" wants it strictly understood that two Irishmen can keep him in a house all day, but a thousand of the Big Mose crowd can't keep him from shooting marbles on the sidewalk, provided none of the Yids get behind him. So step right in, gangland, before the water gets frozen. You have stopped nothing and nobody. You have engendered hate where once was contempt. You have sowed the wind. Reap the whirl-
978 wind. Your type has failed miserably. Now see what printers' type will accomplish.

This little fight is not a private argument. It is open to any public official who wishes to hop in.

GIL'S CHATTERBOX

When I was a lad I was a heavy reader of Horatio Alger. The plots were always the same—the country boy headed into the city; ran across an old man in a predicament; got rich, and returned to the country just in time to pay off the

mortgage and save the old homestead.

979

But times have changed. I headed into the city on September 26th, ran across three Jews in a Chevrolet; stopped a lot of lead and won a bed for myself in St. Barnabas Hospital for six weeks; got rid of nearly one thousand smackers in hospital, nurse, and doctor bills; haven't been able to get back to the country yet and the mortgage is still on the homestead.

Wherefore I have withdrawn all allegiance to anything with a hook nose that eats herring. I have adopted the sparrow as my national bird until Davis' law enforcement league or the K. K. K. hammers the eagle's beak out straight. 980
So if I seem to act crazy as I ankle down the street, bear in mind that I am merely saluting MY national emblem.

All of which has nothing to do with the present whereabouts of Big Mose Barnett. Methinks he headed the local delegation to the new Palestine-for-Jews-only. He went ahead of the boys so he could do a little fixing with the Yiddish chief of police and get his twenty-five per cent of the gambling rake-off. Boys will be boys and "ganefs" will be ganefs.

981

And incidentally, during my recent indisposition, I have been a steady reader of the Saturday Press. I agreed with everything I read except the criticism of America's best police chief for spelling "Two" thusly—"t-o-w." Tut, tut, sezzi. Let's be charitable and give the devil his due. He got all the letters in anyway. Any man who can fall off a beer wagon and get an education taking civil service examinations as a flatfoot, wherein he flunked seven times because he couldn't read the questions and the commission couldn't decipher his answers; any man who can do that

982 and then hoist himself by his boot straps and a lot of throat cutting until he roosts on the top rung of the ladder where he composes epistles to the Romans—and worse—getting all the letters into three-letter words, is entitled to recognition, not censure. I'll pass.

And in passing I wish to remember one more Court House gentleman—the genial, affable long boy who draws the County Attorney's pay check for services rendered each month, Floyd B. Olson. Mr. Olson cut himself into the scrap last week with a little high-low cunning that didn't get across. But I'm glad you got your feet wet anyway, Floyd,
983 because I would rather have an enemy out in the open in front of me than sneaking around in the dark.

For the benefit of the uninformed, Olson sent a friend of his, one Bert, to my associate, Mr. Near, with a message. Olson hadn't given up the idea of being Governor, and he just naturally loved Mr. Near so much! Near should come over—it being considerably closer from the Press office to the Court House than from the Court House to the Press office—BUT, Near was making a terrible mistake doubling up with Gill, as yours truly always had a chip on his shoul-
984 der. Don't know whether Bert delivered the answer, but we can't print it anyway. Now, here's the comedy. The other half of the plunderbund sent me messages of love and devotion, and told me I was making a mistake tying up with Near as he was so vicious. If you folks can't get a laugh out of this Near and I can.

Now as for you, Floyd, the public might as well step in on our little secret. I was very fair with you. I was very skeptical of you, for I had your number. When I gave you a complete extortion case against Ed Morgan of the Twin City

Reporter, I did so knowing that you would ball it all up and save the house and hide of Morgan. The case died an unnatural death. 985

When I eased it into you gracefully that I knew of your office subordinate going down to the gambling syndicate's hell hole at 208 11th Avenue South and collecting enough frog skins to defray your printing bills when you were running for Governor in 1924, and were still the County Attorney of Hennepin County, I did so to take you out of the vest pocket of the horse thieves who have been running Minneapolis, and put you in a neutral corner. I knew you were the ace-in-the-hole for the gang. There has hardly been a grand jury during your administration but whose members complain that you stall evidence away from them instead of helping bring criminals to justice. 986

And Mr. Olson, when I told you this, I also knew that Ed Morgan of the Twin City Reporter had a twenty-five per cent interest in that gambling hell that sent the assistant currency teller of the First National Bank to jail for a nine thousand embezzlement, AND NO PROSECUTION ON THE PART OF YOUR OFFICE. Now laugh that one off. 987

Now go ahead and run for Governor again, Floyd, and you'll find that what you took to be a chip on my shoulder was really a tomahawk. I have a sunny disposition that causes me to laugh and smoke the boys right out in the open. I'll keep no dog that fawns on me in the daytime, but steals on me in the dark to bite me. You get the idea, don't you, Floyd? And now that you are out in the open with the rest of the gang that doesn't like the Near-Guilford combination, what are you going to do?

Seems like wasting a lot of paper on one man, doesn't it?

988 But it has a healthy effect on the next two-faced baby. I believe Mark Twain said that fleas were a mighty good thing for a dog, as it kept him scratching, and took his mind off the fact that he is a dog. Floyd should have learned a lesson from what happened to his Polish friend, who also invited himself into the scrap.

Enough of that. I have no doubt but that many of my readers have been waiting for the return of this column so they could get the low-down on my shooting. I am sorry to disappoint, but two very nice young Hebrew gentlemen are 989 sitting up under the big clock waiting to tell their side of the story, and I shall let it all be told in a court room. How foolish those boys are to stand pat for Mose, who has deserted them and is most interested in looking out for himself and his own liberty. Boys, you let daylight through me when I didn't have a chance. Now let's see if there is any gambling blood in you. I can make no promises, and our acquaintance has been very brief, but you're out of luck looking to the regular channels to save you, for this paper will block them —you were willing to push me over the Divide—now tell the 990 truth and see if I am not as good a sport as the rat that framed with you at that Harmon Place joint, and then ran out from under you.

It seems that the natives of our small sister city of Winona are having their own police trouble right now. One of the night captains was pried loose from the force for indulging in the favorite pastime of liquor-law enforcement gents—planting a small quantity of liquor and then "finding it."

It is a despicable trick, to put it as mildly as possible, but a common one, and has done more than its share toward

making liquor law enforcement a standing joke—but a 991
ghastly one.

It is charged that this Winona copper was wont to send his men out for a bottle, gulp down all but a small quantity and then plant the remainder in a place to be raided. Of course the plant was always found and the night captain filled the blotter with his exploits.

The sooner police forces are rid of such bacteria, the sooner the laws they are presumed to enforce, will be respected. It is difficult to respect a law when the men charged with its enforcement stoop so low that they couldn't see the scales on a snake's belly with a Lick telescope. 992

The sword swallower at the doctor's: "No more cavalry, swords, no more dagers, just some small dessert knives to keep your strength up!"

Motorist skids across the street and hits another machine. "Pardon me, but I am suffering from auto intoxication."

Tramp—Lady, I'l starvin'. I kin see by yer face dat youse 993
has a good heart.

Housewife (slamming door)—Notbing of the kind. It's always missing a beat!

BETTER JOIN THE JEW, FRANKIE

Two weeks ago an ochre hued hombre, who swivels the swivel chair in the southwest corner of the City Hall basement, got busy with a lot of telephone numbers and called to his sanctum, or separating room, a certain citizen of Minneapolis whose identity will be kept a secret between the

994 best police chief in the U. S. and the editors of this publication.

With arms waving like lingerie on a Dakota clothesline; with genuine self pity portrayed on each seam of his genial countenance, our beloved chief demonstrated what may be expected of him when the big crash comes. "McCormick and Leach are just as much to blame for everything as I am," the brave little leader of the city's finest declaimed, "and it isn't fair for me to get all this heat. Do you know Near? Can you talk to him?" the b. p. c. in the U. S. wailed, and without waiting for an answer he orated further,
995 "You go and tell McCormick that I said he was to get this thing fixed up and pull this paper off me. I'll stand for anything, and nobody will be sorry if this can be fixed up."

We won't regale the public with the balance of the harangue of Brunskill, the big brave standpatter which Leach either picked or had picked for him to lead the police department of this city. Did we say the "big, brave standpatter?" No, by all means no. The cowardly, groveling, creeping, weakling, crying like a spanked schoolboy who wants all the rest of the class to be spanked too.

996 Misery loves company, and Brunskill wants Leach and McCormick in the mud while he is in the mire. That seems fair to the publishers of this paper. We are not centering an attack on Brunskill to the exclusion of all others, and so, to be fair to Brunskill, and as a sort of special favor to him, we are putting in his confessed companions to keep him company. Hoping that Brunskill's pleasure over his mudhole companionship will not be offset by the additional heat he will get from them for his showing of the yellow streak, we beg to remain, yours very truly, the shot and unshot editors, etc.

But Frankie, why all the weeps and the faint heart? 997
Why bring the world into your private little cesspool? You know McCormick, and if you had half the courage that the Creator gave the louse you could have delivered your message in person. You know Near, and you know Guilford. If you were afraid of the old man you have over five hundred coppers to commandeer as a bodyguard. And Guilford was on a hospital bed, put there by the gunmen of your bosom Jew, Mose Barnett, while you conveniently stayed in Chicago at a "Safety" conference. Surely you would dare carry a message to an invalid, unless your guilty conscience made 998
you cower and cringe like the craven which many members of your department declare you to be.

Your crony Barnett didn't act as you do. He didn't run around crying for sympathy and telling folks it was all your fault. When the heat got too strong he exchanged several silver beams of prosperity for a one-way railroad ticket. If he didn't leave his address with you, you have earned the right to get it from members of his gang that you let out of jail on numerous occasions. Better join your greasy chum, Frankie, for the big tank is going to crash through your office one of these days. 999

SIMPLE—LIKE A FOX

A total of a half million copies of the Minnesota Leader have been sent out over the state (precious few of them were scattered among the voters of Schall's home city), since September 1st. If Schall isn't trying to "frame" the G. O. P. in this state, then he's letting a lot of shavings fall on the floor.

Schall doesn't come up for his Senatorial licking until 1930 but here we find him working in his little political

1000 cabinet shop two years, plus, in advance of his own campaign.

And bear this in mind:

Schall will be a Republican "regular" just as long as the Republicans are "regular" Schallites, but let them exhibit symptoms of choosing another man for the position he now holds and Schall will be anything else, but.

That old boy is a politican first and a party man last. And, speaking once more of the Minnesota Leader, it is currently reported that a new number soon off the press (and in time to again save the mailing rights) will be devoted to
1001 Shipstead.

Two to one is Schall's favorite play—two issues devoted to Schall and one sold to Shipstead?

Shipstead, if you notice, is "first up" for election, but Schall takes the first two issues of the Leader. Sure, Tommy is simple—like a fox.

"That freshman's neck reminds me of a typewriter."

"How's that?"

"It is under wood."

1002 ———

"You had better be X-rayed," said the doctor.

"There's no need," sighed the patient. "Get my wife; she's always able to see through me."

GRAND JURIES AND DITTO

There are grand juries, and there are grand juries. The last one was a real grand jury. It acted. The present one is like the scion who is labelled "Junior." That means not so good. There are a few mighty good folks on it—there are some who smell bad. One petty peanut politician whose

graft was almost pitiful in its size when he was a public official, has already shot his mouth off in several places. He is establishing his alibi in advance for what he intends to keep from taking place. 1003

But George, we won't bother you. We are aware that the gambling syndicate was waiting for your body to convene before the big crap game opened again. The Yids had your dimensions, apparently, and we always go by the judgment of a dog in appraising people.

We will call for a special grand jury and a special prosecutor within a short time, as soon as half of the staff can navigate to advantage, and then we'll show you what a real grand jury can do. Up to the present we have been merely tapping on the window. Very soon we shall start smashing glass. 1004

I have been asked by two somewhat hard-boiled gentlemen, who have prior claims, to leave Mose Barnett for them, as they wish to take him on his last ride. So hurry back, Mose. You're sitting pretty—like the traveling man whose berth was in a wooden coach, but he had a steel coach ahead of him and another one behind him. 1005

Big Ed turned out to be a poor forecaster on the longevity of the Saturday Press. Why Ed, the Press will be running when you are editing the funny column in the Prison Mirror.

Our Court House is a wonderful institution—it is so operated that even the four faces of the town clock tell a different story. Start to work by one of them, and then look at another and you'll discover you are going to be two hours late for the evening pork and beans if you don't start back home pronto.

1006 (Title of Cause.)

DEMURRER.

The defendants demur to the complaint herein on the ground that it does not state facts sufficient to constitute a cause of action.

LATIMER & LATIMER,
Attorneys for Defendants,
1047 Security Building,
Minneapolis, Minn.

(Title of Cause.)

1007 ORDER.

The above entitled matter, being on the Special Term Calendar of this Court, came duly on to be heard before the undersigned, on the demurrer of the defendant to the complaint herein, Messrs. Latimer & Latimer appearing for said defendants in support of said demurrer, and Floyd B. Olson, County Attorney of Hennepin county, appearing for the plaintiff, in opposition thereto.

After hearing the arguments of counsel, and being fully advised in the matter, it is

1008 ORDERED: That said demurrer be and the same hereby is overruled.

Dated December 9th, 1927.

By the Court:

MATHIAS BALDWIN,
Judge.

MEMORANDUM.

The Language of the Constitution of the state of Minnesota is plain. It reads:

"Sec. 3. Liberty of the Press.—The liberty of the press

shall forever remain inviolate, and all persons may freely 1009
speak, write and publish their sentiments on all subjects, being responsible for the abuse of such rights." And the Constitution of the United States carries a similar provison.

The defendants contend that Laws of 1925, Chapter 285, under which this proceeding is brought, contravenes the above provision of the organic law and is therefore unconstitutional.

The 1925 Law makes provision for the suppression, in most drastic manner, of any publication proscribed by such Law. Under its provisions, the court may suppress the 1010
publication of a newspaper or periodical if it comes within the definition of such Law.

The particular portion of the Law under which this present action is sought to be maintained, is that one which prohibits malicious, scandalous and defamatory publications which are regularly and customarily published as such.

The demurrer of the defendants to the complaint, necessarily admits the truth of the allegations of the complaint, which complaint is the language of the Law itself.

The protection of newspapers by the Constitution is strongly stressed by the defendants, from the standpoint of libel. 1011
But the 1925 Law in question seems to have something else in mind than the prevention of personal libels. The designation of such publications as "nuisances" immediately puts them into that class of things that are harmful to the community at large; and the fact that particular individuals are libeled is merely incidental. What is sought is protection of the public, or, in other words, the general welfare. Indeed, one may readily conceive a publication, within the definition of the Law, which in fact libels no particular person (as where a creed, nationality, or class, is attacked)

1012 yet the effect of which on the public might be most harmful, and for the redress of which, no particular individual would have any cause of action.

For the foregoing reasons, briefly indicated, the court is of the opinion that Chapter 285, Laws of 1925, is a valid exercise of the police power of the State, and that the demurrer of defendants should be overruled.

But the holdings of various courts, jealously guarding the right of free speech and free press, the language of the Constitution the departure from apparently accepted standards, and the responsibility that may from time to time 1013 be thrown on the courts to swiftly and accurately define the clear demarcation between publications coming within and without the law, all combine to create some doubt in the court's mind as to the correctness of its holding; and it therefore certifies to the Supreme Court the question of the constitutionality of Chapter 285, Laws of 1925.

This memorandum may be considered as a part of the foregoing order.

MATHIAS BALDWIN,
Judge.

1014

(Title of Cause.)

NOTICE OF APPEAL.

To Floyd B. Olson, county attorney and attorney for the above named plaintiff and to Walter Ryberg, clerk of the District Court:

Please take notice, That the above named defendants appeal to the Supreme Court of the State of Minnesota from an order of the said District Court entered herein on the 9th day of December, A. D. 1927, overruling the

demurrer interposed to the complaint of the plaintiff and from the whole thereof. 1015

Dated this seventeenth day of December, A. D. 1927.

LATIMER & LATIMER,
Attorneys for Defendants,
1047 Security Building,
Minneapolis, Minn.

(Title of Cause.)

SYLLABUS.

1. A newspaper business conducted in violation of Laws, 1925, C. 285, is a public nuisance. 1016

2. Equity has jurisdiction to enjoin and abate public nuisances.

3. The inherent nature of the business of regularly and customarily publishing and circulating a malicious, scandalous and defamatory newspaper bears such a relation to the social and moral welfare that the legislature, in the legitimate exercise of the police power, may declare it to be a public nuisance.

4. The constitutional liberty of the press means the right to publish with impunity, the truth, with good motives and for justifiable ends; liberty to publish with complete immunity from legal censure and punishment for the publication, so long as it is not harmful in its character when tested by such standards as the law affords. 1017

Such a business conducted in violation of Laws, 1925, C. 285, is an abuse of the press. It was never the intention of the Constitution to afford protection to a publication devoted to scandal and defamation. It protects the use and not abuse of the press.

5. Said statute does not violate the due process of law

1018 guaranty found in our Constitution.

6. Defendants in equitable actions of this character are not entitled to a jury trial.

The constitutional guaranty of a jury trial relates only to actions at law.

(Affirmed.)

OPINION.

Appeal from an order overruling a demurrer to the complaint, the question involved being certified to this court as doubtful and important.

1019 Action to abate and enjoin a nuisance based upon Laws, 1925, C. 285, which in part reads as follows:

"Any person who * * * shall be engaged in the business of regularly or customarily producing, publishing or circulating, having in possession, selling or giving away * * * (b) a malicious, scandalous and defamatory newspaper * * * is guilty of a nuisance, and all persons guilty of such nuisance may be enjoined, as hereinafter provided. * * * In actions brought under (b) above, there shall be available the defense that the truth was published with good

1020 motives and for justifiable ends."

The complaint specifically alleges a violation of the statute in nine issues of the paper between Sept. 24, 1927, and Nov. 19, 1927, inclusive, in which such attacks were made against one Charles G. Davis, the mayor of Minneapolis, the chief of police of Minneapolis, the county attorney of Hennepin county, the Jewish race and the members of the grand jury of Hennepin county. For present purposes we must consider the allegations of the complaint to be true. Defendants challenge the validity of this statute.

1. The word "nuisance" is sufficiently comprehensive to

include the alleged unlawful business which necessarily works harm, injury and prejudice to the individual and is prejudicial to the public welfare. Since it annoys, injures and endangers the comfort and repose of a considerable number of persons it is a nuisance within G. S. 1923, §10241, sub. 1. Perhaps it also endangers safety within the meaning of the statute. Moreover, the people speaking through their representatives in the legitimate exercise of the police power have declared such acts a nuisance. Our legislature has declared the following to be nuisances: Places where intoxicating liquor is illegally sold, G. S. 1923, §3200; houses of prostitution, G. S. 1923, §10199; sheep killing dogs, G. S. 1923, §7287; malicious fences, G. S. 1923, §9581; itinerant carnivals, G. S. 1923, §10242; lotteries, G. S. 1923, §10209; and noxious weeds, G. S. 1923, §6146. This legislative power has been used as to various things constituting nuisances. 21 Cent. L. J. 305. 1021 1022

2. We are not here concerned with the power of equity to enjoin libel or otherwise to protect personal rights. The statute is directed at an existing nuisance arising out of a continued and habitual indulgence in malice, scandal and defamation. Such is the declared purpose of the statute. Equity has always had jurisdiction to enjoin and abate public nuisances. Township of Hutchinson v. Filk, 44 Minn. 536; City of Jordan v. Leonard, 119 Minn. 162; State ex rel. Wilcox v. Gilbert, 126 Minn. 95; City of Marshall v. Cook, 169 Minn. 248; Town of Linden v. Fischer, 154 Minn. 354; 29 Cyc. 1219, 35 C. J. 171, §45. Even sports may sometimes be enjoined as private nuisances. 21 Yale L. J. 414. 1023

3. In the exercise of the police power of the state the legislature must resort to measures which tend to accomp-

1024 lish the desired purpose and on the other hand, must not exceed the reasonable demands of the occasion. Police power involves the imposition of such restrictions upon private rights as are practically necessary for the general welfare, i. e., the public interest, and it must be limited to such matters. State ex rel. Beek v. Wagener, 77 Minn. 483; State ex rel. Wilcox v. Gilbert, 126 Minn. 95, 107; Grisim v. So. St. Paul Livestock Exchange, 152 Minn. 271; State ex rel. Lachtman v. Houghton, 134 Minn. 226; Dunnell's Minn. Dig. (2nd Ed.), §§1603, 1605.

1025 Under modern authorities there can be no doubt that the police power includes all regulations designed to promote public convenience, happiness, general welfare and prosperity, orderly state of society, comfort of the people, peace, and extends to all great public needs as well as to regulations designed to promote public health, morals or safety. It is the prerogative of the legislature to determine not only what the public interests require but also the measures necessary to protect such interests. It has no right arbitrarily to declare something to be a nuisance which is clearly not so. But in that regard a great deal must be
1026 left to its discretion, and if the object to be accomplished is conducive to public interests, as it is here, it may exercise a large liberty of choice in the means employed. Lawton v. Steele, 152 U. S. 133, 140; State ex rel. Wilcox v. Gilbert, supra. The determination of the legislature is ordinarily final, presumptively valid; but the presumption is not conclusive. Grisim v. So. St. Paul Livestock Exchange, supra. For our purposes it is sufficient that a state of facts could exist which would justify this legislation. Our inquiry relates to the power, not the expediency. Munn v. Illinois, 94 U. S. 113. Every reasonable presumption must be in-

dulged in favor of the validity of the statute. Unless its 1027
invalidity clearly appears it must be sustained. The courts will interfere only where the regulations adopted are arbitrary, oppressive and unreasonable. Home Tel. etc. v. Los Angeles, 211 U. S. 265; People v. Weiner, 271 Ill. 74; State v. Morse, 84 Vt. 387; State ex rel. McBride v. Superior Court, 103 Wash. 409; People ex rel. Barmore v. Robertson, 302 Ill. 422, 22 A. L. R. 835; Town of Kinghurst et al. v. International Lbr. Co. et al.—— Minn.—— (filed Apr. 20, 1928). It must be remembered that the police power is a governmental right in the state which authorizes it to pro- 1028
hibit all things harmful to the comfort, safety and welfare of society. It is to the public what the law of necessity is to the individual. State v. Mountain Timber Co., 75 Wash. 581. The constituent elements of the declared nuisance are the customary and regular dissemination by means of a newspaper which finds its way into families, reaching the young as well as the mature, a selection of scandalous and defamatory articles treated in such a way as to excite attention and interest, to command circulation.

In State v. Pioneer Press Co., 100 Minn. 173, a statute 1029
forbidding publication of details of execution of criminals was sustained as a valid police measure.

In State v. Holm, 139 Minn. 267, it was held that the state may deny the right to publish and teach things injurious to society.

In the development and growth of the law and our institutions, the tendency is to extend rather than to restrict the police power. State ex rel. City of Minneapolis v. St. P. M. & M. Ry. Co., 98 Minn. 380; C. M. & St. P. Ry. Co. v. City of Minneapolis, 115 Minn. 460; State ex rel. Twin City B. & I. Co. v. Houghton, 144 Minn. 1.

1030 The business at which the statute is directed involves more than libel. Mere libel under the statute does not constitute the nuisance. The statute is not directed at threatened libel but at an existing business which, generally speaking, involves more than libel. The distribution of scandalous matter is detrimental to public morals and to the general welfare. It tends to disturb the peace of the community. Being defamatory and malicious it tends to provoke assaults and the commission of crime. It has no concern with the publication of the truth, with good motives, and for justifiable ends. There is no constitutional right to publish a
1031 fact merely because it is true. It is a matter of common knowledge that prosecutions under the criminal libel statutes do not result in efficient repression or suppression of the evils of scandal. Men who are the victims of such assaults seldom resort to the courts. This is especially true if their sins are exposed and the only question relates to whether it was done with good motive and for justifiable ends. This law is not for the protection of the person attacked nor to punish the wrongdoer. It is for the protection of the public welfare. The courts have uniformly sustained the
1032 constitutionality of statutes conferring upon courts of equity power to restrain public nuisances although the acts constitute crime and the plaintiff's property rights are not involved. Anno. 5 A. L. R. 1476 and cases cited. The inherent nature of the business bears such a relation to the social and moral welfare that we hold that the legislature was in the legitimate exercise of the police power when it declared such business to be a public nuisance. The right to do this was forced upon the state in the exercise of its functions, or rather duty, to preserve that equilibrium of relative right which must be preserved in organized society.

4. "The liberty of the press shall forever remain in- 1033
violate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right." Art. 1, §3, Minn. Const.

The liberty of the press consists in the right to publish, with impunity, the truth, with good motives and for justifiable ends; liberty to publish with complete immunity from legal censure and punishment for the publication, so long as it is not harmful in its character, when tested by such standards as the law affords. The constitutional protection meant the abolition of censorship and that governmental 1034
permission or license was not to be required; and indeed, our constitution, like the first amendment to the United States Constitution, effectually struck down the ancient system or method of fettering the press by a licenser and gave the individual freedom to act—but to act properly or within legal rules of propriety. In fact, such was the rule of common law when our constitution was adopted. 12 C. J. 952, §467. Our constitutional provisions intended to prevent restraints upon publications as had been practiced by other governments. Patterson v. Colorado, 205 U. S. 454. In Minnesota no agency can hush the sincere and honest 1035
voice of the press, but our constitution was never intended to protect malice, scandal and defamation when untrue or published with bad motive or without justifiable ends. It is a shield for the honest, careful and conscientious press. Liberty of the press does not mean that an evil minded person may publish just anything any more than the constitutional right of free assembly authorizes and legalizes unlawful assemblies and riots. There is a legal obligation on the part of all who write and publish to do so in such a manner as not to offend against public decency, public

1036 morals and public laws. Otherwise our statute of criminal libel would not be valid. In making the publisher responsible for the abuse of the press, the legislature is authorized to make laws to bridle the appetite of those who thrive upon scandal and rejoice in the consequence thereof.

It was never the intention of the constitution to afford protection to a publication devoted to scandal and defamation. He who uses the press is responsible for the abuse thereof. He may be required by legislation to have regard for the vital interests of society. Immunity in the mischievous use of the press is as inconsistent with civil liberty
1037 as prohibition of the harmless use thereof. The constitutional rights of the individual are as sacred as the liberty of the press. Newspaper proprietors have no claims to indulgence. They have the same rights that the rest of the community have, and no more. It is the liberty of the press that is guaranteed—not the licentiousness. The press can be free and men can freely speak and write without indulging in malice, scandal and defamation; and the great privilege of such liberty was never intended as a refuge for the defamer and the scandal monger. Defendants stand before
1038 us upon the record as being regularly and customarily engaged in a business of conducting a newspaper sending to the public malicious, scandalous and defamatory printed matter. Obviously indulgence in such publications would soon deprave the moral taste of society and render it miserable. A business that depends largely for its success upon malice, scandal and defamation can be of no real service to society.

It is not a violation of the liberty of the press or of the freedom of speech for the legislature to provide a remedy for an abuse thereof. Robison v. H. & R. Employees, 35

Idaho, 418, 207 Pac. 132; 27 A. L. R. 642. Nor does the constitutional guaranty of the liberty of the press deprive the state of its police power to enact additional laws for the welfare of society such as hereinbefore stated. 12 C. J. 952, §468. 1039

The constitutional right of free speech is not violated by a law prohibiting public addresses on public grounds. Commonwealth v. Davis, 162 Mass. 510, 26 L. R. A. 712.

A statute making a publication of a false report of the proceedings of any court a contempt does not violate such constitutional guaranty of liberty of the press. State v. Faulds, 17 Mont. 140, 42 Pac. 285; State ex inf. Crow v. Shepard, 177 Mo. 205. Nor is a criminal libel statute in derogation of the freedom of the press. Morton v. State, 3 Tex. App. 510. A law making it a crime to publish an article inciting or encouraging crime is not violative of the freedom of the press. State v. Fox, 71 Wash. 185, 236 U. S. 273. The constitutional guaranty of a free press cannot be made a shield from violation of criminal laws. Tyomies Pub. Co. v. United States, 211 Fed. 385. The statute prohibiting the mailing of obscene matter is not in derogation of the liberty of the press. id. Davis v. Beason, 133 U. S. 333; Knowles v. United States, 170 Fed. 409. The press cannot justify doing evil on the theory that good may result therefrom. McDougall v. Sheridan, 23 Idaho, 191. It is the use, and not the abuse of the liberty of the press that is guarded by our fundamental law. Diener v. Star-Chronicle Pub. Co., 230 Mo. 613, 132 S. W. 1143, 33 L. R. A. (NS) 916. Liberty of the press and freedom of speech, under the constitution do not mean the unrestrained right to write and say what one pleases at all times and under all circumstances. Warren v. United States, 183 Fed. 718, 33 L. R. A. (NS) 800. 1040 1041

1042 5. The due process clause in our constitution was never intended to limit the subjects on which the police power of a state may lawfully be exerted. This guaranty has never been construed as being incompatible with the principle, equally vital because essential to peace and safety, that all property is held under the implied obligation that the owner's use of it shall not be injurious to the community. 12 C. J. 1197, §962. Indeed the police power of the state includes the right to destroy or abate a public nuisance. Property so destroyed is not taken for public use and therefore there is no obligation to make compensation for such
1043 taking. 6 R. C. L. 480, §478. The rights of private property are subservient to the public right to be free from nuisances which may be abated without compensation. 12 C. J. 1279, §1085. The statute involved does not violate the due process of law guaranty. State ex rel. Robertson v. Wheeler, 131 Minn. 308; Anno. 5 A. L. R. 1483.

6. In equitable actions of this character the defendants are not entitled to a jury trial. State ex rel. Wilcox v. Gilbert, 126 Minn, 95; Hawley v. Wallace, 137 Minn. 183. The authorities are collected in Anno. 5 A. L. R. 1480. As
1044 indicated, this kind of an action involves more than a mere libel. The purpose of this statute is to repress the nuisance by a direct attack upon the property involved. It inflicts no personal penalties as punishments for evils involved. The mere fact that the law of libel permits a jury in an action for criminal libel to pass upon the law as well as upon the facts, does not mean that if in an equity action to enjoin a nuisance, facts are involved which might in themselves be sufficient to constitute libel, a jury must be had. Indeed in such an action the law of libel, as such, is not involved and there is no occasion to ask a jury to serve in its unusual

character. The fact that much will frequently have to be established in such an action as this that would have to be established in an action for criminal libel does not invoke and make applicable the peculiar rules of procedure which apply exclusively to such actions for libel. The long established rule which makes the jury the judge of the law and facts in a prosecution for criminal libel does not mean that a court of equity cannot decide what is a libel when it is important only as one of the elements necessary to constitute the particular nuisance. The constitutional guaranty of a jury trial relates only to actions at law. Art. I, §4 Minn. Const.; U. S. Const. Amend. VI and VII; 16 R. C. L. 209, §27, p. 214, §32. It has been said that persons dealing in intoxicating liquors have no vested right in a jury trial in order to determine whether or not their places of business are public nuisances. State ex rel. Atty. Gen. v. Stoughton Club, 163 Wis. 362. Persons dealing in scandal and defamation have no greater right. 1045 1046

Affirmed.

Hilton, J., took no part.

(Title of Cause.) 1047

THE ANSWER OF J. M. NEAR, SOLE REMAINING DEFENDANT TO THE BILL OF COMPLAINT OF THE STATE OF MINNESOTA EX REL. FLOYD B. OLSON, COUNTY ATTORNEY OF HENNEPIN COUNTY, MINNESOTA, PLAINTIFF.

The defendant, reserving to himself all right of exceptions to the said bill of complaint, for answer thereto says:

1. This defendant admits that from and after September 24th, 1927, he, with others, was engaged in the business of publishing and circulating a newspaper known as The Satur-

1048 day Press; and he avers that he is now the sole owner and proprietor of the said publication by virtue of a contract entered into on the second day of October, 1928, between him, the said defendant, and Howard A. Guilford whereby the said Howard A. Guilford did sell, assign, transfer, and set over unto him the said defendant, his executors, administrators, and assigns, all the said Howard A. Guilford's right, title and interest in the assets and good will of the said publication and all the said Howard A. Guilford's right, title and interest in and to the said publication and in and to any accounts and choses in action belonging to the said
1049 publication with full power and authority to him, the said defendant, for his own use and benefit, to prosecute and withdraw any suits or proceedings at law or in equity; but he, the said defendant, denies that said newspaper was a malicious, scandalous or defamatory newspaper, magazine, or periodical as alleged in the said bill of complaint;

2. This defendant admits that on September 24th, 1927, he, with others, did publish and circulate an edition of said publication which contained an article concerning one Charles G. Davis, but denies that the same was malicious,
1050 scandalous or defamatory, as alleged in the said bill of complaint;

3. This defendant admits that on October 1, 1927, he, with others, did publish and circulate an edition of said publication which contained articles concerning said Charles G. Davis, but denies that said articles were malicious, scandalous or defamatory as alleged in the said bill of complaint;

4. This defendant admits that on October 8, 1927, he, with others, did publish and circulate an edition of said publication which contained articles concerning one Frank W. Brunskill but denies that the same were malicious, scan-

dalous or defamatory as alleged in the said bill of complaint; 1051

5. This defendant admits that on October 15, 1927, he, with others, did publish and circulate an edition of said publication which contained articles concerning said Frank W. Brunskill and said Charles G. Davis, but denies that the same were malicious, scandalous or defamatory as alleged in the said bill of complaint;

6. This defendant admits that on October 22, 1927, he, with others, did publish and circulate an edition of said publication which contained articles concerning said Frank W. Brunskill, The Minneapolis Journal, a Minnesota corporation, but denies that the same were malicious, scandalous 1052 or defamatory as alleged in the said bill of complaint;

7. This defendant admits that on October 29, 1927, he, with others, did publish and circulate an edition of said publication which contained articles concerning said Frank W. Brunskill but denies that the same were malicious, scandalous or defamatory as alleged in the said bill of complaint;

8. This defendant admits that on November 5, 1927, he, with others, did publish and circulate an edition of said publication which contained articles concerning said Frank W. Brunskill but denies that the same were malicious, scan- 1053 dalous or defamatory as alleged in the said bill of complaint;

9. This defendant admits that on November 12, 1927, he, with others, did publish and circulate an edition of said publication which contained articles concerning one Melvin C. Passolt and one Floyd B. Olson, but denies that the same were malicious, scandalous or defamatory as alleged in the said bill of complaint;

10. This defendant admits that on November 19, 1927, he, with others, did publish and circulate an edition of said publication which contained articles concerning one George

1054 E. Leach, said Charles G. Davis, said Frank W. Brunskill, said Floyd B. Olson, but denies that the same were malicious, scandalous or defamatory as alleged in the said bill of complaint and that he has ever published or circulated any malicious, scandalous or defamatory article concerning the Jewish race as alleged in the said bill of complaint;

11. This defendant, further answering, denies that the said publications, as alleged in the said bill of complaint, constitute a public nuisance under the laws of the State of Minnesota because, he says, the said laws are null, void, invalid, and wholly ineffectual as being in contravention of
1055 the Fourteenth Amendment to the Constitution of the United States and the provision therein contained that no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.

12. This defendant, further answering, denies that the said publications, as alleged in the said bill of complaint, constitute a public nuisance under the laws of the State of Minnesota because, he says, the said laws are null, void, invalid, and wholly ineffectual as being in contravention of the Fourteenth Amendment to the Constitution of the
1056 United States and the provisions therein contained that no state shall deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws;

13. This defendant, further answering, says that the said laws of the State of Minnesota are null, void, invalid, and wholly ineffectual because they contravene the Fourteenth Amendment to the Constitution of the United States and the provisions therein contained that no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;

14. This defendant, further answering, says that the said laws of the State of Minnesota are null, void, invalid, and wholly ineffectual because they contravene the Fourteenth Amendment to the Constitution of the United States and the provisions therein contained that no state shall deprive any person of life, liberty, or property without due process of law, or deny to any person within its jurisdiction the equal protection of the laws; 1057

15. This defendant, further answering, says that the said laws of the State of Minnesota are null, void, invalid, and wholly ineffectual because they contravene Section 4 of Article 4 of the Constitution of the United States which provides that the United States shall guarantee to every state in this Union a Republican form of government; 1058

16. That the said laws are null, void, invalid, and wholly ineffectual as being in contravention of the guaranty of freedom of speech and of the press contained in the First Amendment to the Constitution of the United States, and in Article 1, Section 3 of the Constitution of the State of Minnesota;

17. That the said laws are null, void, invalid, and wholly ineffectual because they deprive this defendant of his liberty and property without due process of law in violation of the Fifth Amendment to the Constitution of the United States; 1059

18. That the said laws are null, void, invalid, and wholly ineffectual as denying the right to trial by jury, in accordance with the Sixth Amendment to the Constitution of the United States;

19. That the said laws are null, void, invalid, and wholly ineffectual as denying the right to trial by jury, in accordance with the Seventh Amendment to the Constitution of the United States;

1060 20. That the said laws are null, void, invalid, and wholly ineffectual as being in violation of the Eighth Amendment to the Constitution of the United States requiring that excessive fines shall not be imposed, nor cruel and unusual punishments inflicted;

21. That the Supreme Court of Minnesota by holding that the said laws do not contravene the Constitution of Minnesota has so construed the said Constitution of Minnesota as to render it, the said Constitution, itself a violation of the Constitution of the United States;

1061 22. That the Supreme Court of Minnesota by holding that the said laws do not contravene the Constitution of Minnesota has so construed the laws of Minnesota that the said Constitution in conjunction with the said laws are together a violation of the Constitution of the United States;

23. That the Supreme Court of Minnesota by holding that the said laws do not contravene the Constitution of Minnesota has so construed the Constitution of Minnesota as to render it, the said Constitution, itself a violation of the Fourteenth Amendment to the Constitution of the United States and the provisions therein contained that no
1062 state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States and providing that no state shall deprive any person of life, liberty or property without due process of law nor deny to any person within its jurisdiction the equal protection of the laws;

24. That the Supreme Court of Minnesota by holding that the said laws do not contravene the Constitution of Minnesota has so construed the laws of Minnesota that the said Constitution in conjunction with the said laws are together a violation of the Fourteenth Amendment to the Con-

stitution of the United States and the provisions therein contained that no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, and providing that no state shall deprive any person of life, liberty, or property without due process of law nor deny to any person within its jurisdiction the equal protection of the laws; 1063

25. And this defendant, further answering, denies that the plaintiff is entitled to the relief, or any part thereof, in the said bill of complaint demanded, and prays the same advantage of this answer as if he had pleaded or demurred to the said bill of complaint; and prays that the temporary restraining order be dissolved and that he be dismissed with his reasonable costs and charges in this behalf most wrongfully sustained. 1064

LATIMER & LATIMER,
KIRKLAND, FLEMING, GREEN & MARTIN,
Attorneys for Defendant,
1047 Security Bldg.,
Minneapolis, Minn.

1065

State of Minnesota,
ss.
County of Hennepin.

J. M. Near, being first duly sworn, deposes and says, that he is one of the defendants in the above entitled action; that he has read the foregoing answer and knows the contents thereof, and that the same is true of his own knowledge, except as to such matters stated upon knowledge and belief and as to them he believes it to be true.

J. M. NEAR.

1066 Subscribed and sworn to before me this 10th day of October, 1928.

T. E. LATIMER,
Notary Public,
Hennepin County, Minn.

(Seal)

My commission expires Feb. 13th, 1934.

(Title of Cause.)

SETTLED CASE

The above entitled action came on for hearing before
1067 Hon. Mathias Baldwin, one of the judges of said court, on the morning of October 10, 1928. Mr. Floyd Olson appeared in behalf of plaintiff. Messrs. Latimer & Latimer and William H. Symmes appeared in behalf of defendants.

Mr. Olson: Plaintiff offers in evidence the verified complaint, together with the issues of the publication in question, which are made exhibits and parts of the original complaint.

Mr. Latimer: At this time, the defendant objects to the introduction of the evidence in question: (1) On the ground
1068 that the law under which the evidence is offered is null and void and invalid, being in contravention of the Fourteenth Amendment to the Constitution of the United States and the provision therein contained that no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; (2) That the law under which it is offered, under the allegations of the complaint that this publication constitutes a public nuisance under the laws of the State of Minnesota, is wholly ineffectual as being in contravention of the Fourteenth Amendment to the Constitution of the United States and the provisions therein contained that no State shall deprive any

person of life, liberty, or property, without due process of 1069
law, nor deny to any person within its jurisdiction the full protection of the laws; (3) That the law under which this evidence is offered is null, void, invalid, and wholly ineffectual, because it contravenes the Fourteenth Amendment to the Constitution of the United States and the provision therein contained that no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; (4) That the law under which this evidence is offered is null, void, invalid, and wholly ineffectual, because it contravenes the Fourteenth Amendment to the Constitution of the United States and the pro- 1070
visions therein contained that no State shall deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws; (5) That this law is null and void and invalid and wholly ineffectual, because it contravenes Section 4 of Article 4 of the Constitution of the United States, which provides that the United States shall guarantee to every State in this union a republican form of government; (6) That said law is null and void and invalid and wholly ineffectual, as being in contravention of the guaranty 1071
of freedom of speech and of the press contained in the First Amendment to the Constitution of the United States, and in Article 1, Section 3, of the Constitution of the State of Minnesota; (7) That it is null and void, invalid and wholly ineffectual, because it deprives this defendant of his liberty and property without due process of law, in violation of the Fifth Amendment to the Constitution of the United States (8) That it is null and void, invalid and wholly ineffectual, as denying the right to trial by jury, in accordance with the Sixth Amendment to the Constitution of the United

States; (9) That it is null, void, invalid and wholly in-
1072 effectual, as denying the right to trial by jury, in accordance with the Seventh Amendment to the Constitution of the United States; (10) That it is null, void, invalid and wholly ineffectual, as being in violation of the Eighth Amendment to the Constitution of the United States, requiring that excessive fines shall not be imposed, nor cruel and unusual punishments inflicted; (11) That the Supreme Court of Minnesota, by holding that the said laws do not contravene the Constitution of Minnesota, has so construed the said Constitution of Minnesota as to render it, the said Consti-
1073 tution, itself a violation of the Constitution of the United States; (12) That the Supreme Court of Minnesota, by holding that the said laws do not contravene the Constitution of Minnesota, has so construed the laws of Minnesota that the said Constitution, in conjunction with the said laws, are together a violation of the Constitution of the United States; (13) That the Supreme Court of Minnesota, by holding that the said laws do not contravene the Constitution of Minnesota, has so construed the Constitution of Minnesota, as to render it, the said Constitution, itself a
1074 violation of the Fourteenth Amendment to the Constitution of the United States and the provisions therein contained that no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States and providing that no State shall deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws; (14) That the Supreme Court of Minnesota, by holding that the said laws do not contravene the Constitution of Minnesota, has so construed the laws of Minnesota that the said Constitution in conjunction

with the said laws are together a violation of the Fourteenth Amendment to the Constitution of the United States and the provisions therein contained that no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States and providing that no State shall deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws. 1075

Objection overruled.

Exception by defendant.

Mr. Olson: Plaintiff rests.

Mr. Latimer: Defendant rests. 1076

Mr. Olson: The plaintiff moves that the court direct the issuance of a permanent injunction, upon the ground that the exhibits as they are made a part of the complaint in question, contain matter which is per se malicious, defamatory and scandalous.

The Court: Inasmuch as the Supreme Court of this State has passed upon it, I presume it is a mere formality. You may prepare an order.

(A stay of twenty days was agreed to.)

1077

STIPULATION.

It is hereby stipuated that the foregoing transcript of evidence consisting of five (5) pages of typewritten matter and nine (9) exhibits, to-wit: Exhibits 1, 2, 3, 4, 5, 6, 7, 8, and 9, may be taken as conformable to the truth and as containing all the evidence offered or introduced on the trial of this case, and also all objections, rulings, orders and all other proceedings of such trial, and that the same be settled and allowed as the settled case herein by the

1078 Honorable Mathias Baldwin without notice.
Dated Feb. 6th, 1929.

FLOYD B. OLSON & WILLIAM C. LARSON,
Attorneys for Plaintiff.

LATIMER & LATIMER,
Attorneys for Defendants.

CERTIFICATE.

I hereby certify that the foregoing case, consisting of five (5) pages of typewritten matter and nine (9) exhibits,
1079 to-wit: Exhibits 1, 2, 3, 4, 5, 6, 7, 8, and 9, have been examined by me and found conformable to the truth and to contain all the evidence offered or introduced on the trial of this case and all objections, rulings, orders and all other proceedings of such trial, and on the foregoing stipulation, I hereby settle and allow the same as the settled case herein
Dated Feb. 6th, 1929.

By the Court,
MATHIAS BALDWIN, Judge.

(Title of Cause.)

1080 FINDINGS OF FACT AND CONCLUSIONS OF LAW.

The above entitled action duly came on for hearing before the undersigned, one of the judges of the above named court, on Wednesday, the 10th day of October, 1928, Floyd B. Olson, county attorney, appearing for the plaintiff, and T. E. Latimer of Latimer & Latimer and William H. Symmes of Kirkland, Fleming, Green & Martin of Chicago, appearing for defendants, and upon the evidence adduced upon said date and after hearing the respective parties, the court being fully informed in the premises, makes the following

FINDINGS OF FACT.

1081

1. That the relator, Floyd B. Olson, now is and during all times herein mentioned has been the duly elected, qualified and acting county attorney of Hennepin county, Minnesota, and a citizen of the city of Minneapolis, in said county and State.

2. That in the city of Minneapolis, Hennepin county, Minnesota, the defendants, Howard A. Guilford and J. M. Near, continually from September 24th, 1927, to November 19th, 1928, inclusive, were engaged in the business of regularly and customarily producing, editing, publishing, circulating, having in their possession, selling and giving away a newspaper, magazine and periodical, during all of said time known as The Saturday Press.

1082

3. That on said September 24th, 1927, said defendants did publish and circulate an edition of said publication which was chiefly devoted to malicious, scandalous and defamatory articles concerning Charles G. Davis.

4. That on October 1, 1927, said defendants did publish and circulate an edition of said publication which was chiefly devoted to malicious, scandalous and defamatory articles concerning said Charles G. Davis.

1083

5. That on October 8th, 1927, said defendants did publish and circulate an edition of said publication which was chiefly devoted to malicious, scandalous and defamatory articles concerning one Frank W. Brunskill.

6. That on October 15th, 1927, said defendants did publish and circulate an edition of said publication which was chiefly devoted to malicious, scandalous and defamatory articles concerning said Frank W. Brunskill and said Charles G. Davis.

1084 7. That on October 22, 1927, said defendants did publish and circulate an edition of said publication which was chiefly devoted to malicious, scandalous and defamatory articles concerning said Frank W. Brunskill, the Minneapolis Tribune, a Minnesota corporation, and the Minneapolis Journal, a Minnesota corporation.

8. That on October 29th, 1927, said defendants did publish and circulate an edition of said publication which was chiefly devoted to malicious, scandalous and defamatory articles concerning said Frank W. Brunskill and Charles G. Davis.

1085 9. That on November 5th, 1927, said defendants did publish and circulate an edition of said publication which was chiefly devoted to malicious, scandalous and defamatory articles concerning said Frank W. Brunskill.

10. That on November 12, 1927, said defendants did publish and circulate an edition of said publication which was chiefly devoted to malicious, scandalous and defamatory articles concerning said Frank W. Brunskill and one Floyd B. Olson.

11. That on November 19, 1927, said defendants did pub-
1086 lish and circulate an edition of said publication which was chiefly devoted to malicious, scandalous and defamatory articles concerning one George E. Leach, said Charles G. Davis, said Frank W. Brunskill, said Floyd B. Olson, the Jewish race, the members of the grand jury of Hennepin county, Minnesota, duly impaneled and sworn on November 7th, 1927, and then holding office.

12. And said defendants, and each of them, in and through said several publications above described, which were regular weekly issues of said publication, did thereby engage in the business of regularly and customarily produc-

ing, publishing and circulating a malicious, scandalous and 1087
defamatory newspaper.

13. That the said publication, as heretofore alleged, by the said defendants under said name of The Saturday Press, or any other name, constitutes a public nuisance under the laws of the State of Minnesota.

From the foregoing the court makes the following

CONCLUSIONS OF LAW.

1. That said nuisance be abated.

2. That said defendants, Howard A. Guilford, and J. M. Near, and all other persons or parties unknown, claiming any right, title, estate, lien or interest in said publication known as The Saturday Press, or by any other name, or in its sale and distribution, be perpetually enjoined and restrained from producing, editing, publishing, circulating, having in their possession, selling or giving away any publication whatsoever which is a malicious, scandalous and defamatory newspaper as defined by law. 1088

3. That said defendants, Howard A. Guilford and J. M. Near, and all other persons or parties unknown, claiming any right, title or interest in said publication known as The Saturday Press, or by any other name, or in its sale and distribution, be perpetually enjoined and restrained from further conducting said nuisance under the name and title of said The Saturday Press, or under any other name or title. 1089

Let judgment be entered accordingly.

Dated January 19th, 1929.

MATHIAS BALDWIN,
District Judge.

1090 (Title of Cause.)

JUDGMENT AND DECREE.

The above entitled action came on for hearing before the above named court on the 10th day of October, 1928, and the court after the evidence was adduced and being fully advised in the premises, did on the 21st day of January, 1929, duly make and file its findings and order for judgment herein.

Now, therefore, pursuant to said order and on motion of Floyd B. Olson, county attorney and attorney for the plaintiff, it is hereby adjudged and decreed:

1091 1. That the newspaper, magazine and periodical known as The Saturday Press published in the city of Minneapolis, Hennepin county, Minnesota, and produced, edited, published and circulated by defendants, Howard A. Guilford and J. M. Near, as a malicious, scandalous and defamatory publication during all of the times mentioned in said complaint and thereby being and constituting a public nuisance, be and is hereby abated.

2. That the defendants, Howard A. Guilford, J. M. Near, and all other persons or parties unknown, claiming any 1092 right, title, estate, lien or interest in the publication known as The Saturday Press, or by any other name, or in its sale and distribution, and each of them, be and are hereby perpetually enjoined and restrained from producing, editing, publishing, circulating, having in their possession, selling or giving away any publication whatsoever which is a malicious, scandalous or defamatory newspaper, as defined by law.

3. That the defendants, Howard A. Guilford, J. M. Near, and all other persons or parties unknown, claiming any right, title, estate, lien or interest in the publication known as The Saturday Press, or by any other name, or in its sale

and distribution, and each of them, be and are hereby perpetually enjoined and restrained from further conducting said nuisance under the name and title of said The Saturday Press or any other name or title. 1093

By the Court,

WALTER A. RYBERG,
Clerk of District Court.
By W. A. Carlson,
Deputy.

(Title of Cause.)

NOTICE OF APPEAL. 1094

To Floyd B. Olson, county attorney and attorney for the above named plaintiff and to Walter Ryberg, clerk of said District Court:

Please take notice, that the above named J. M. Near appeals to the Supreme Court of the state of Minnesota, from the judgment and decree of the said District Court entered herein, on the 21st day of January, A. D. 1929, adjudging and decreeing that the above named defendants be and remain permanently and perpetually enjoined and restrained from doing any of the acts referred to in said judgment and decree, and from the whole thereof. 1095

Dated this 31st day of January, A. D. 1929.

LATIMER & LATIMER, and
KIRKLAND, FLEMING, GREEN & MARTIN,
Attorneys for Defendant J. M. Near

Due and personal service of the within Notice of Appeal admitted this 1st day of January, 1929.

FLOYD B. OLSON and
WM. C. LARSON,
Attorneys for Plaintiff.

1096 Due and personal service of the within Notice of Appeal admitted this 1st day of February, 1929.

WALTER A. RYBERG,
Clerk of the District Court.
By George H. Hemperley.

The cost bond on Appeal in the within entitled action is hereby waived.

FLOYD B. OLSON and
WM. C. LARSON,
Attorneys for Plaintiff.

[File endorsement omitted]

IN SUPREME COURT OF MINNESOTA

STATE OF MINNESOTA EX REL. FLOYD B. OLSON, County Attorney of Hennepin County, Minnesota, Plaintiff-Respondent,

vs.

HOWARD A. GUILFORD, J. M. NEAR and all other persons or parties unknown claiming any right, title, estate, lien or interest in the publication described in the complaint herein, or its sale and distribution, Defendants

J. M. NEAR, Appellant

AMENDMENT TO APPELLANT'S BRIEF—Filed Sept. 24, 1929

ASSIGNMENT OF ERRORS

And now comes J. M. Near, appellant, by Latimer & Latimer, and by Kirkland, Fleming, Green & Martin, his attorneys, and says that in the judgment, record and proceedings herein there are numerous manifect errors and reasons why the judgment herein should be reversed, and shows to the court here the following errors of record:

1. The trial court erred in refusing to hold that Chapter 285 of Session Laws of 1925 violates the Fourteenth Amendment to the Constitution of the United States by abridging a privilege and immunity of a citizen of the United States and that it is therefore unconstitutional.

2. The trial court erred in refusing to hold that Chapter 285 of Session Laws of 1925 deprives the appellant of liberty and property without due process of law in violation of the Fourteenth Amendment to the Constitution of the United States and that it is therefore unconstitutional.

3. The trial court erred in refusing to hold that Chapter 285 of Session Laws of 1925 denies to the appellant the equal protection of the laws in violation of the Fourteenth

Amendment to the Constitution of the United States and that it is therefore unconstitutional.

4. The trial court erred in refusing to hold that Chapter 285 of Session Laws of 1925 deprives the appellant of the right to trial by jury in violation of the Sixth and Seventh Amendments to the Constitution of the United States and that it is therefore unconstitutional.

5. The trial court erred in refusing to hold that Chapter 285 of Session Laws of 1925 is an unreasonable exercise of the police power in violation of Section 1 of the Fourteenth Amendment to the Constitution of the United States and that it is theefore unconstitutional.

6. The trial court erred in refusing to hold that Chapter 285 of Session Laws of 1925 violates the guaranty of freedom of speech and press contained in the First Amendment to the Constitution of the United States and that it is therefore unconstitutional.

7. The trial court erred in refusing to hold that Chapter 285 of Session Laws of 1925 inflicts upon appellant a cruel and unusual punishment in violation of the Eighth Amendment to the Constitution of the United States and that it is therefore unconstitutional.

8. The trial court erred in refusing to hold that Chapter 285 of Session Laws of 1925 violates the guaranty of freedom of speech and press contained in Article 1, Section 3 of the Constitution of Minnesota and that it is therefore unconstitutional.

9. The trial court erred in refusing to hold that Chapter 285 of Session Laws of 1925 deprives the appellant of his right to trial by jury in violation of Article 1, Section 4 of the Constitution of Minnesota and that it is therefore unconstitutional.

10. The trial court erred in refusing to hold that Chapter 285 of Session Laws of 1925 deprives the appellant of liberty and property without due process of law in violation of Article 1, Section 7 of the Constitution of Minnesota, and that it is therefore unconstitutional.

11. The trial court erred in refusing to hold that Chapter 285 of Session Laws of 1925 inflicts upon appellant a cruel and unusual punishment in violation of Section 5 of Article 1 of the Constitution of Minnesota and that it is therefore unconstitutional.

12. The trial court erred in refusing to hold that Chapter 285 of Session Laws of 1925 provides for damaging appellant's property with no provision for just compensation therefor in violation of Article I, Section 13 of the Constitution of Minnesota, and that it is therefore unconstitutional.

13. The trial court was without jurisdiction of the subject-matter.

Wherefore and for divers other errors appearing of record, appellant prays that the order and judgment of the District Court for the Fourth Judicial District in this behalf rendered, be reversed.

Respectfully submitted, Latimer & Latimer, 1047 Security Building, Minneapolis, Minnesota, Kirkland, Fleming, Green & Martin, 7 So. Dearborn Street, Chicago, Illinois, Attorneys for Appellant. Weymouth Kirkland, Louis G. Caldwell, Charles F. Rathbun, Edward C. Caldwell, of Counsel.

IN SUPREME COURT OF MINNESOTA

[Title omitted]

NOTICE TO JOIN IN APPEAL—Filed Apr. 7, 1930

To Howard A. Guilford, one of the above named defendants:

You are hereby invited to join with me on or before the 15th day of February, A. D. 1930 to prosecute an appeal in the above entitled cause, returnable in the United States Supreme Court, to reverse the judgment in the above entitled cause rendered against us jointly and severally on

the 20th day of December, A. D. 1929, or you will be deemed to have acquiesced in said judgment and I shall prosecute said appeal without joining you as a party.

J. M. Near.

Service of the above is accepted this 1st day of February, A. D. 1930.

Howard A. Guilford, one of the defendants in the above entitled cause.

[File endorsement omitted.]

IN SUPREME COURT OF MINNESOTA

MOTION FOR SEVERANCE ON APPEAL—Filed Apr. 7, 1930

Now comes J. M. Near, Defendant-Appellant in the above entitled cause, by Latimer & Latimer, and Kirkland, Fleming, Green and Martin, his attorneys, and states and shows to the Court that he has filed his Assignments of Errors and Petition for allowance of appeal from the final judgment and decree entered in the above entitled cause on February 25, 1930;

That the demand and notice to join in said appeal have been duly made and served upon his sole Co-Defendant Howard A. Guilford; that the said Co-Defendant has failed, neglected, and refused to join in said appeal, and has been duly notified to appear in the above entitled Court and cause to appeal or join in said appeal or to show cause why an order of severance should not be made against him, barring his right to prosecute an appeal or appeals in the above entitled cause.

Wherefore J. M. Near, defendant-appellant herein, prays the Court for an order of severance from his sole Co-Defendant Howard A. Guilford, for the purpose of an appeal to the Supreme Court of the United States from the final judgment and decree entered herein on February 25, 1930; and for such other and further orders as may be proper in the premises.

Latimer & Latimer. Kirkland, Fleming, Green & Martin, attorneys for J. W. Near, Defendant-Appellant.

Personal Service of a copy of the within Motion for Severance on Appeal is hereby acknowledged and accepted this 24th day of March, 1930.

Floy B. Olson, County Attorney of Hennepin County, Minnesota, by Ed J. Goff, Assistant County Attorney of Hennepin County, Minnesota. William C. Larson, Assistant County Attorney of Hennepin County, Minnesota.

[File endorsement omitted.]

IN SUPREME COURT OF MINNESOTA

[Title omitted]

ORDER OF SEVERANCE ON APPEAL—Filed Apr. 7, 1930

Now on this 2nd day of April this cause came on to be heard upn the motion of J. M. Near, Defendant-Appellant, by Latimer & Latimer, and Kirkland, Fleming, Green & Martin, his attorneys, for an order of severance on appeal in the above entitled cause and thereupon, upon consideration thereof;

It is found by the court that demand in writing has been duly made by the above named party upon his sole co-defendant, Howard A. Guilford, to appeal or join in appeals from the final judgment and decree in the above entitled case to the Supreme Court of the United States and that said co-defendant has been duly notified in writing to appear and show cause why order of severance should not be made, and has failed to appear, and join in the appeal of the party above named, and,

It is further found by the court that said co-defendant is the sole and only co-defendant of the defendant-appellant, J. M. Near, and the only co-defendant who has been served with summons or by publication or otherwise in this cause or who has appeared herein;

It is further found that J. M. Near, Defendant-Appellant, has indicated his desire to appeal in this cause, and that he is entitled to a severance from his co-defendant in this cause, therefore;

It is ordered that the above named defendant-appellant be and he is hereby granted a severance from his co-defendant, Howard A. Guilford, for the purpose of appeal, or appeals, from the final judgment and decree of this court entered on February 25, 1930, to the Supreme Court of the United States.

S. B. Wilson, Chief Justice of the Supreme Court of Minnesota.

[File endorsement omitted.]

IN SUPREME COURT OF MINNESOTA

No. 384

27380

STATE, EX. REL. FLOYD B. OLSON, Respondent,

vs.

HOWARD A. GUILFORD et al., J. M. NEAR, Appellant

Wilson, C. J.

(File endorsement omitted.)

SYLLABUS

Laws 1925, chap. 285, do not violate the due process of law guaranty contained in our state and federal constitutions nor do they violate our constitutional provision for the freedom of the press. State ex rel Olson v. Guilford et al., 174 Minn. 457, followed.

Affirmed.

OPINION—Filed Dec. 20, 1929

Defendant J. M. Near appealed from an adverse judgment.

The action was to abate a nuisance, arising out of the operation of a newspaper business, as authorized by laws

1925, c. 285. The cause has been here before, 174 Minn. 457. Presumably an evil, inimical to the public welfare, existed in this state which the legislature intended to remedy. No claim is advanced that the method and character of the operation of the newspaper in question was not a nuisance if the statute is constitutional. It was regularly and customarily devoted largely to malicious, scandalous and defamatory matter.

The claim is advanced that the statute is in contravention of article I, § 3 of our state constitution relating to the liberty of the press, and also that it violates the due process clause of both article I, § 7 of our state constitution and the Fourteenth Amendment to the Constitution of the United States. In our opinion the laws of 1925, c. 285, violate neither the state nor the federal constitution. The record presents the same questions, upon which we have already passed. Our former opinion will disclose other grounds urged by the appellant and such grounds have been urged in this appeal although we do not discuss them in detail.

The argument is made that the judgment goes too far and literally prevents the defendants from publishing any kind of a newspaper and thereby deprives them of their means of livelihood and the legitimate use of their property. It is sufficient to say that the assignments of error do not go to the form of the judgment. The lower court has not been asked to modify the judgment. We see no reason, however, for defendants to construe the judgment as restraining them from operating a newspaper in harmony with the public welfare to which all must yield. The case has now been tried. The allegations of the complaint have been found to be true. Though this is an equitable action defendants have in no way indicated any desire to conduct their business in the usual and legitimate manner.

Upon authority of State, ex rel., Olson v. Guilford, et al., 174 Minn. 457, wherein our views have been more fully expressed, the judgment herein is affirmed.

Wilson, C. J.

Hilton, J. took no part.

IN SUPREME COURT OF MINNESOTA

27380

STATE OF MINNESOTA, ex Rel. FLOYD B. OLSON, County Attorney of Hennepin County, Minnesota, Respondent,

vs.

HOWARD A. GUILFORD, J. M. NEAR et al., Defendants; J. M. NEAR, Appellant

JUDGMENT—Filed Feb. 25, 1930

Pursuant to an order of Court heretofore duly made and entered in this cause it is determined and adjudged that the Judgment of the Court below, herein appealed from, to-wit, of the District Court within and for the County of Hennepin be and the same hereby is in all things Affirmed.

By the Court.

Attest: Grace Kaercher Davis, Clerk, by Peter O. Scow, Deputy.

Dated and signed February 25th, A. D. 1930.

Clerk's Certificate to foregoing paper omitted in printing.

[File endorsement omitted.]

IN SUPREME COURT OF MINNESOTA

[Title omitted]

Petition for Appeal, Assignment of Errors, and Prayer for Reversal—Filed April 7, 1930

PETITION FOR APPEAL

Considering himself aggrieved by the final decision of the Supreme Court of the State of Minnesota in the above entitled cause, defendant therein, J. M. Near, a citizen of the United States and of the State of Minnesota, hereby

prays that an appeal be allowed to the Supreme Court of the United States, herein, and for an order fixing the amount of the bond thereon.

ASSIGNMENT OF ERRORS

And the said J. M. Near respectfully submits that in the record, proceedings, decision, and final judgment and decree of the Supreme Court of Minnesota, in the above-entitled matter there is manifest error in this, to wit:

First, the court erred in holding that the provisions of chapter 285 of the Session Laws of the State of Minnesota for the year 1925, are not in conflict with and in violation of the provisions of the Fourteenth Amendment to the Constitution of the United States, for that the State of Minnesota, by and through the provisions of said chapter 285, assumes and seeks (1) to deprive appellant and certain other citizens of the United States and of the State of Minnesota of rights, privileges, and immunities secured to other citizens of the United States and of the said State; (2) to deprive appellant and other citizens of the United States of liberty and property without due process of law; (3) to deprive and to deny to appellant and certain citizens and persons within the jurisdiction of the State of Minnesota, the equal protection of the law.

Second, the court erred in holding that by the provisions of the said act the State of Minnesota has neither made nor enforced any law which abridges the privileges or immunities secured to appellant as a citizen of the United States by the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Third, the court erred in holding that by the provisions of said act appellant is not deprived of liberty and property without due process of law in violation of the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Fourth, the court erred in holding that the provisions of said act do not deny to appellant the equal protection of the law in violation of the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Fifth, the court erred in holding that the said act and the authority exercised thereunder and thereby authorized to be exercised thereunder is within the police powers of the legislature of the State of Minnesota and that it is not an unreasonable exercise of each police power in violation of the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Sixth, the court erred in holding that the provisions of said act do not abridge the inalienable and constitutional right of appellant to pursue a lawful avocation in a lawful way without interference by the State in violation of the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Seventh, the court erred in holding that the said provisions of chapter 285 of Session Laws of the State of Minnesota for the year 1925 do not revive the obsolete doctrine of libels on government, and thus abridge the privilege of appellant to criticize the Federal Government, in contravention of the republican form and theory of government and in violation of the Federal Constitution and of the fourth section of the fourth article thereof and of the first section of the Fourteenth Amendment thereto.

Eighth, the court erred in holding that it is within the police power of the State for the legislature to declare that defamation is a nuisance and that such declaration does not violate the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Ninth, the court erred in holding that the provisions of the said act do not go beyond the supposed evil sought to be remedied in violation of the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Tenth, the court erred in holding that the said act is not oppressive and unjust and in violation of the Federal Constitution and the first section of the Fourteenth Amendment thereto in placing an unreasonable burden of proof upon appellant.

Eleventh, the court erred in holding that the provisions of said act permitting the immediate issuance of a temporary restraining order upon the unsworn bill of complaint, without notice, without a showing of irreparable

damage, without hearing defendant, and without bond, do not violate the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Twelfth, the court erred in holding that the said act does not deprive appellant of the right to trial by jury in violation of the Federal Constitution and the first section of the Fourteenth Amendment thereto.

PRAYER FOR REVERSAL

For which errors the defendant, J. M. Near, prays that the said judgment and decree of the Supreme Court of the State of Minnesota entered February 25, 1930, in the above entitled cause, be reversed and a judgment rendered in favor of the said defendant, and for costs.

Weymouth Kirkland, Weymouth Kirkland, and Thomas E. Latimer, Thomas E. Latimer, Attorneys for Appellant. Kirkland, Fleming, Green & Martin, Kirkland, Fleming, Green & Martin, Latimer & Latimer, Latimer & Latimer, of counsel.

Service of a copy of the within Petition for Appeal, Assignment of Errors and Prayer for Reversal acknowledged and accepted this 1st day of April, 1930.

Floyd B. Olson, County Attorney of Hennepin County, Minn. William C. Larson, Assistant County Attorney of Hennepin County, Minnesota.

[File endorsement omitted.]

IN SUPREME COURT OF MINNESOTA

[Title omitted]

ORDER ALLOWING APPEAL—Filed Apr. 7, 1930

The appellant in the above entitled suit having prayed for the allowance of an appeal in this cause to the Supreme Court of the United States from the judgment and decree made and entered in the above entitled suit by the Supreme Court of the State of Minnesota on the 25th day of

February, 1930, and from each and every part thereof, and having presented and filed his petition for appeal, assignments of errors, and prayer for reversal, pursuant to the statutes and the rules of the Supreme Court of the United States in such case made and provided:

It is now here ordered that an appeal be, and the same is hereby, allowed to the Supreme Court of the United States from the Supreme Court of the State of Minnesota in the above entitled cause, as provided by law, and it is further ordered that the Clerk of the Supreme Court of the State of Minnesota prepare and certify a transcript of the record, proceedings, and judgment and decree in this cause and transmit the same to the Supreme Court of the United States, so that he shall have the same in said Court within thirty days of this date.

And it is further ordered that security for costs on appeal be fixed in the sum of $500.00.

S. B. Wilson, Chief Justice of the Supreme Court of the State of Minnesota.

Dated: April 2nd, 1930.

[File endorsement omitted.]

Citation in usual form showing service on Floyd B. Olson, Filed Apr. 7, 1930, omitted in printing.

Bond on appeal for $500.00 approved and filed Apr. 7, 1930, omitted in printing.

Petition for rehearing covering 2 pages, Filed Dec. 30, 1929, omitted from this print.

It was denied, and nothing more by order. Jan. 10, 1930.

In Supreme Court of Minnesota

[Title omitted]

Order Staying Proceedings—Dec. 30, 1929

Application for reargument having been filed herein all further proceedings, except taxation of costs are stayed pending its determination.

IN SUPREME COURT OF MINNESOTA

[Title omitted]

ORDER DENYING REHEARING AND VACATING STAY—Jan. 10, 1930

Ordered that the petition for reargument herein be and the same hereby is denied and stay vacated.

IN SUPREME COURT OF MINNESOTA

[Title omitted]

PRÆCIPE FOR TRANSCRIPT

To the Clerk of the Supreme Court of Minnesota:

You are requested to take a transcript of record to be filed in the Supreme Court of the United States pursuant to an appeal allowed in the above entitled cause and to include in such transcript of record the following papers or exhibits, to wit:

Copy of the record as printed for the Supreme Court of Minnesota.

Copy of the Assignment of Errors to the Supreme Court of Minnesota entitled Amendment to Appellant's Brief.

Original Notice to Howard A. Guilford to join in Appeal with acknowledgment by him of service of a copy thereof.

Original Motion for Severance on Appeal.

Original Order of Severance on Appeal.

Copy of the Opinion of the Supreme Court of Minnesota filed on December 20, 1929.

Copy of Final Judgment of Supreme Court of Minnesota entered February 25, 1930, and Certificate of Clerk of date of entry thereof.

Original Petition for Appeal, Assignments of Errors, and Prayer for Reversal, with acknowledgment of service of a copy thereof on appellee.

Original Order allowing Appeal and fixing Appeal Bond.

Original Citation to Appellee with acknowledgment and Return of Service thereon.

Copy of Appeal Bond and of the Order of the Chief Justice of the Supreme Court of Minnesota approving it.

Copy of the Acknowledgment of Appellee of the Sufficiency of the Appeal Bond and the Sureties thereon.

Copy of the Petition for Reargument.

Copy of the Order of the Supreme Court of Minnesota of December 30, 1929, staying proceedings pending application for Reargument.

Copy of the Order of the Supreme Court of Minnesota of January 10, 1930, denying the Petition for Reargument.

This Præcipe for Transcript of Record with Acknowledgment of Service of a copy thereof on Appellee.

Certificate of Clerk authenticating Transcript of Record.

Said transcript to be prepared as required by law and the Rules of the Supreme Court of the United States.

Weymouth Kirkland, Thomas E. Latimer, Attorneys for Appellant.

Service of a copy of the foregoing directions to the Clerk of the Supreme Court of Minnesota for making up a transcript of record on appeal in said cause acknowledged this 4th day of April, 1930.

Floyd B. Olson, County Attorney of Hennepin County, Minn. William C. Larson, Assistant County Attorney of Hennepin County, Minnesota, Attorneys for Appellee.

Clerk's certificate to foregoing transcript omitted in printing.

IN SUPREME COURT OF THE UNITED STATES

[Title omitted]

STATEMENT OF POINTS ON WHICH APPELLANT INTENDS TO RELY AND DESIGNATION OF PARTS OF THE RECORD DEEMED NECESSARY FOR THE CONSIDERATION THEREOF—Filed Apr. 25, 1930

Comes now the appellant in the above entitled cause and states that the points upon which he intends to rely in this Court in this case are as follows:

First, the supreme Court of Minnesota erred in holding that the provisions of chapter 285 of the Session Laws of the State of Minnesota for the year 1925, are not in conflict with and in violation of the provisions of the Fourteenth Amendment to the Constitution of the United States, for that the State of Minnesota, by and through the provisions of said chapter 285, assumes and seeks (1) to deprive appellant and certain other citizens of the United States and of the State of Minnesota of rights, privileges, and immunities secured to other citizens of the United States and of the said State; (2) to deprive appellant and other citizens of the United States of liberty and property without due process of law; (3) to deprive and to deny to appellant and certain citizens and persons within the jurisdiction of the State of Minnesota, the equal protection of the law.

Second, the Supreme Court of Minnesota erred in holding that by the provisions of the said act the State of Minnesota has neither made nor enforced any law which abridges the privileges or immunities secured to appellant as a citizen of the United States by the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Third, the Supreme Court of Minnesota erred in holding that by the provision of said act appellant is not deprived of liberty and property without due process of law in violation of the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Fourth, the Supreme Court of Minnesota erred in holding that the provisions of said act do not deny to appellant the equal protection of the law in violation of the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Fifth, the Supreme Court of Minnesota erred in holding that the said act and the authority exercised thereunder and thereby authorized to be exercised thereunder is within the police powers of the legislature of the State of Minnesota and that it is not an unreasonable exercise of such police power in violation of the Federal Constitution and the first section of the Fourteenth Amendment.

Sixth, the Supreme Court of Minnesota erred in holding that the provisions of said act do not abridge the inalienable

and constitutional right of appellant to pursue a lawful avocation in a lawful way without interference by the State in violation of the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Seventh, the Supreme Court of Minnesota erred in holding that the said provisions of chapter 285 of Session Laws of the State of Minnesota for the year 1925 do not revive the obsolete doctrine of libels on government, and thus abridge the privilege of appellant to criticize the Federal Government, in contravention of the republican form and theory of government and in violation of the Federal Constitution and of the fourth section of the fourth article thereof and of the first section of the Fourteenth Amendment thereto.

Eighth, the Supreme Court of Minnesota erred in holding that it is within the police power of the State for the legislature to declare that defamation is a nuisance and that such declaration does not violate the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Ninth, the Supreme Court of Minnesota erred in holding that the provisions of the said act do not go beyond the supposed evil sought to be remedied in violation of the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Tenth, the Supreme Court of Minnesota erred in holding that the said act is not oppressive and unjust and in violation of the Federal Constitution and the first section of the Fourteenth Amendment thereto in placing an unreasonable burden of proof upon appellant.

Eleventh, the Supreme Court of Minnesota erred in holding that the provisions of said act permitting the immediate issuance of a temporary restraining order upon the unsworn bill of complaint, without notice, without a showing of irreparable damage, without hearing defendant, and without bond, do not violate the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Twelfth, the Supreme Court of Minnesota erred in holding that the said act does not deprive appellant of the right

to trial by jury in violation of the Federal Constitution and the first section of the Fourteenth Amendment thereto.

Appellant designates the following parts of the record in this appeal as those which he thinks necessary for the consideration of the above mentioned points:

1. The record for the use of the Supreme Court of Minnesota has already been printed and sufficient copies are available for use in the Supreme Court of the United States; appellant therefore designates such printed record in its entirety for use in the hearing of this case. In addition to such printed record, appellant designates the following additional parts of the record, as filed in this court, for printing by the Clerk for the hearing of the case:

2. Assignment of Errors to the Supreme Court of Minnesota entitled Amendment to Appellent's Brief. Tr. 367-371.

3. Notice to Howard A. Guilford of Motion for Severance on Appeal with acknowledgment of service on him. Tr. 372.

4. Motion for Severance on Appeal. Tr. 373-374.

5. Order of Severance on Appeal. Tr. 375-376.

6. Opinion of the Supreme Court of Minnesota filed on December 20, 1929. Tr. 377-378.

7. Final Judgment of the Supreme Court of Minnesota with Certificate of Clerk of Supreme Court of Minnesota as to date of entry thereof. Tr. 379.

8. Petition for Appeal, Assignment of Errors, and Prayer for Reversal, with acknowledgment of service of a copy thereof on appellee. Tr. 380-383.

9. Order allowing Appeal and fixing Appeal Bond. 384-385.

10. Citation to Appellee with Acknowledgment and Return of Service thereon. Tr. 386-387

11. Appeal Bond and Order of the Chief Justice of the Supreme Court of Minnesota approving it. Tr. 388-389.

12. Acknowledgment of Appellee of the Sufficiency of the Appeal Bond and the Sureties therein. Tr. 389-390.

13. Petition for Reargument. Tr. 391-392.

14. Order of the Supreme Court of Minnesota of December 30, 1929, staying proceedings pending application for reargument. Tr. 393.

15. Order of the Supreme Court of Minnesota of January 10, 1930, denying the Petition for Reargument. Tr. 394.

16. The Praecipe, directed to the Clerk of the Supreme Court of Minnesota, for a Transcript of Record with the Acknowledgment of Service of a copy thereof on appellee. Tr. 395-396.

17. Certificate of Clerk of Supreme Court of Minnesota authenticating Transcript of Record.

18. This Statement and Designation with Acknowledgment and Proof of Service of a copy thereof on appellee.

Weymouth Kirkland, Weymouth Kirkland and Thomas E. Latimer, Thomas E. Latimer, Attorneys for Appellant. Kirkland, Fleming, Green & Martin, Kirkland, Fleming, Green & Martin, Latimer & Latimer, Latimer & Latimer, of Counsel.

We, the attorneys of record for the appellee in the above entitled case, acknowledge due service of a copy of the above Statement and Designation upon us this 21st day of April, 1930.

Floyd B. Olson, County Attorney of Hennepin County, Minnesota, William C. Larson, Assistant County Attorney of Hennepin County, Minnesota, Attorneys for Appellee.

State of Minnesota
County of Hennepin, ss:

On this 22nd day of April, in the year of our Lord one thousand nine hundred and thirty, personally appeared before me, a notary public in and for said county, T. E. Latimer, and makes oath that he delivered a true copy of the within Statement and Designation to Floyd B. Olson, County Attorney of Hennepin County, Minnesota, on the 21st day of April, 1930.

T. E. Latimer.

Sworn to and subscribed this 22nd day of April A. D., 1930.

E. H. Latimer, Notary Public in and for the State and County aforesaid.

My commission expires March 26, 1937. (Seal.) (Notarial seal of Hennepin County, Minnesota.)

[File endorsement omitted.]

Endorsed on cover: File No. 34,977. Minnesota, Supreme Court. Term No. 91. J. M. Near, Appellant, vs. The State of Minnesota, ex rel Floyd B. Olson, County Attorney of Hennepin County, Minnesota. Filed April 25, 1930. File No. 34,977.

FILE COPY

No. 91

FIL
MAY 1
CHARLES ELMO

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1929.

J. M. NEAR,

Appellant,

ads.

STATE OF MINNESOTA ex rel. FLOYD B. OLSON, COUNTY ATTORNEY OF HENNEPIN COUNTY, MINNESOTA,

Appellee.

STATEMENT SHOWING BASIS OF JURISDICTION AS REQUIRED BY RULE 12.

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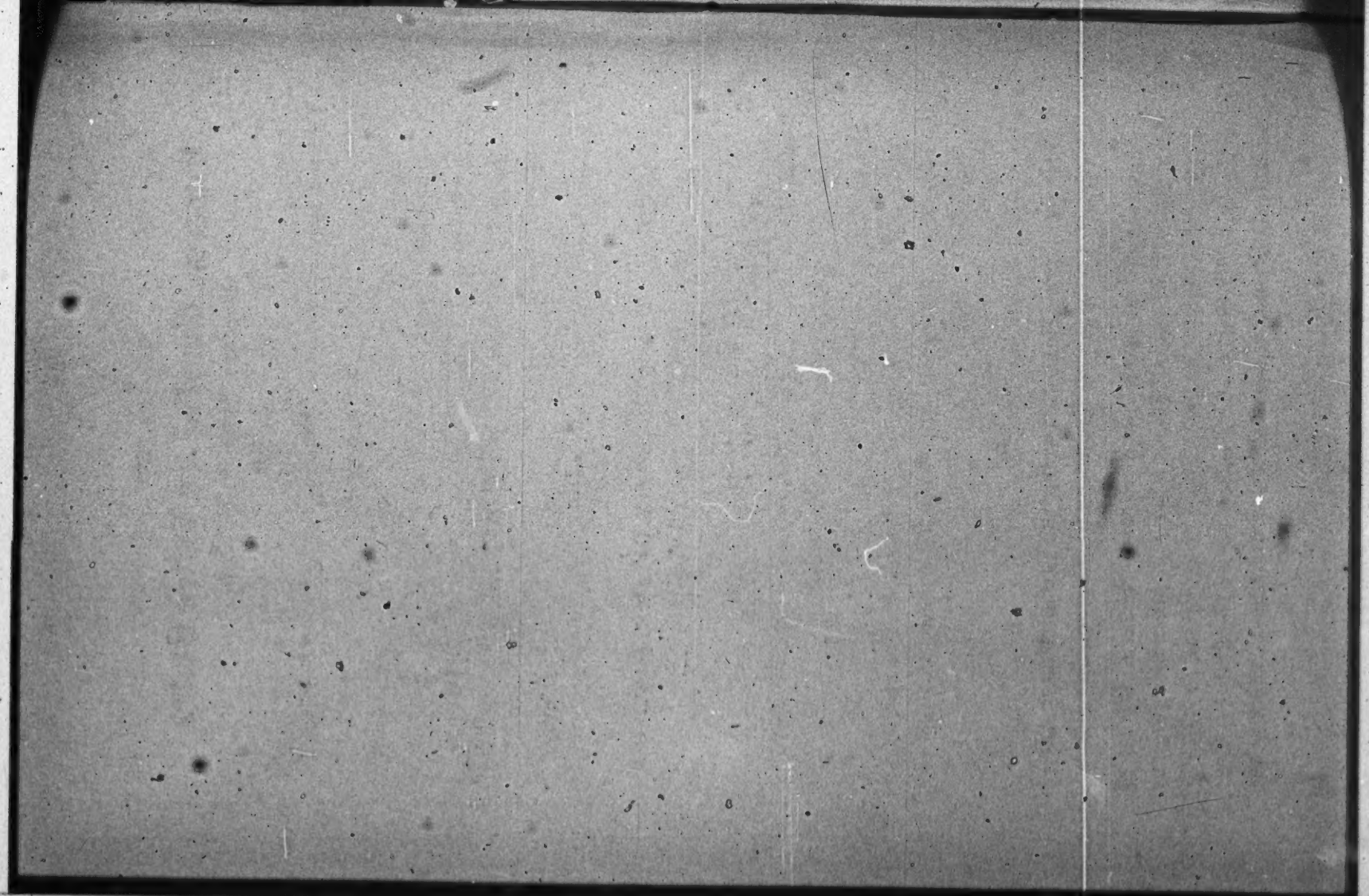

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1929.

No. 846

J. M. NEAR,

Appellant,

ads.

STATE OF MINNESOTA ex rel. FLOYD B. OLSON, COUNTY ATTORNEY OF HENNEPIN COUNTY, MINNESOTA,

Appellee.

STATEMENT SHOWING BASIS OF JURISDICTION AS REQUIRED BY RULE 12.

To the Honorable The Chief Justice and Associate Justices of the Supreme Court of the United States:

MAY IT PLEASE THE COURT:

The appellant in support of the jurisdiction of this court to review the above entitled cause on appeal respectfully represents:

A.

Statutory provisions sustaining the jurisdiction of this court.

This appeal is taken under Sections 861a and 861b of Title 28 of the United States Code, as amended January 31, 1928, and April 26, 1928; under Section 344 of Title 28 of the United States Code (Section 237 of the Judicial Code as amended); and under Rule 46 of the Rules of this court.

B.

Date of judgment and date of application for appeal.

The opinion of the Supreme Court of Minnesota was filed on December 20, 1929 (Rec., 377)*; entry of judgment was stayed pending the determination of the application for re-argument on December 30, 1929 (Rec., 393); the application for re-argument was denied on January 10, 1930 (Rec., 394); judgment was formally entered on February 25, 1930 (Rec., 379), which is the judgment sought to be reviewed on this appeal.

The application for appeal was presented (Rec., 380-383), the appeal allowed (Rec., 384-385), and the citation issued on the second day of April, 1930. (Rec., 386.)

C.

Nature of case and rulings of the Supreme Court of Minnesota.

Appellant and Howard A. Guilford were copartners doing business under the firm name of The Saturday Press and on the 24th day of September, 1927, began the publication of a weekly newspaper known as The Saturday Press. (Rec., 361-362.) They continued the publication of the paper for nine issues up to and including the issue of November 19, 1927. (Rec., 361-362.)

Chapter 285, Session Laws of Minnesota, 1925, (Mason's Minnesota Statutes, 1927, Secs. 10123-1 to 10123-3) contains three sections the first of which is as follows:

"Sec. 1. Any person who, as an individual, or as a

*Note: All references to the record are to the pages of the certified unprinted record prepared by the Clerk of the Supreme Court of Minnesota and on file with the Clerk of this Court. The record has not yet been printed.

member or employee of a firm or association or organization, or as an officer, director, member or employee of a corporation, shall be engaged in the business of regularly or customarily producing, publishing or circulating, having in possession, selling or giving away.

(a) An obscene, lewd and lascivious newspaper, magazine, or other periodical, or

(b) A malicious, scandalous and defamatory newspaper, magazine or other periodical, is guilty of a nuisance, and all persons guilty of such nuisance may be enjoined, as hereinafter provided.

Participation in such business shall constitute a commission of such nuisance and render the participant liable and subject to the proceedings, orders and judgments provided for in this Act. Ownership in whole or in part, directly or indirectly, of any such periodical, or of any stock or interest in any corporation or organization which owns the same in whole or in part, or which publishes the same, shall constitute such participation.

In actions brought under (b) above, there shall be available the defense that the truth was published with good motives and for justifiable ends and in such actions the plaintiff shall not have the right to report to issues or editions of periodicals taking place more than three months before the commencement of the action."

The second section of the act provides that actions thereunder shall be brought by the County Attorney in the name of the State, or in certain contingencies by the Attorney General, or a citizen. The section then continues:

"In any such action the court, or a judge thereof in vacation, may upon such evidence as the court shall deem sufficient, taken in such form as the court shall require, grant a Writ of Temporary Injunction."

The section concludes with a provision for service of summons which may be by publication. The third section, after providing that the action shall be governed by the practice applicable to civil actions for injunctions is as follows:

"After trial the court may make its order and judg-

ment permanently enjoining any and all defendants found guilty of violating this act from further committing or continuing the acts prohibited hereby, and in and by such judgment, such nuisance may be wholly abated.

The court may, as in other cases of contempt, at any time punish; by fine of not more than $1,000, or by imprisonment in the county jail for not more than twelve months, any person or persons violating any injunction, temporary or permanent, made or issued pursuant to this act."

An action was instituted in the District Court for the Fourth Judicial District, Hennepin County, Minnesota, under the above described statute by the County Attorney of Hennepin County against appellant and his copartner Guilford, for the purpose of having their newspaper declared a public nuisance and abated by injunction. The bill of complaint (Rec., 4-8) charged that The Saturday Press was a malicious, scandalous and defamatory newspaper within the meaning of Section 1 (b) of the statute. On November 22, 1927, the summons and complaint, notice of motion, order to show cause and temporary restraining order were served upon appellant and Guilford returnable December 19, 1927. (Rec., 1-8.) Immediately upon the filing of the bill of complaint, the court issued a temporary restraining order restraining the appellant and Guilford from publishing, having in possession, selling or giving away not only any past editions of The Saturday Press but any future editions whether defamatory or not; the defendants were also restrained from publishing, having in possession, selling or giving away any publication known by any other name whatsoever containing malicious, scandalous and defamatory matter of the kind alleged in plaintiff's complaint or otherwise; although the defendants were not ordered to show cause until December 19, 1927, this temporary restraining order was issued on November 22, 1927, without notice, without waiting to grant

the defendants a hearing, without a showing of irreparable damage and without requiring the plaintiff to give any bond. (Rec., 1-2.)

The defendants demurred to the complaint (Rec., 336) and argued that it violated both the guaranty of liberty of the press contained in Article I, Section 3, of the Constitution of Minnesota and the Fourteenth Amendment to the Constitution of the United States. The trial court overruled the demurrer and certified the question of the constitutionality of the act to the Supreme Court of Minnesota. (Rec., 336-338.) The defendants appealed. (Rec., 338-339.) The State Supreme Court rendered an opinion (Rec., 339-349) in which it held that the statute did not violate in any way the Constitution of Minnesota but it did not pass upon any of the federal questions involved. The order of the District Court overruling the demurrer was affirmed (Rec., 349) and the case remanded for further pleading. This opinion is reported in 174 Minn. 457, 219 N. W. 770.

At this point Howard A. Guilford sold out all his interest in The Saturday Press to appellant and withdrew from active participation in the defense. (Rec., 350.) Appellant filed an answer in which he admitted the publication of the nine issues of the newspaper but denied that those publications constituted a public nuisance on the ground that the statute violated not only the Constitution of Minnesota but also ran counter to each of the three prohibitions contained in the first section of the Fourteenth Amendment to the federal Constitution and was incompatible with the republican form and theory of government. (Rec., 349-355.)

Plaintiff offered the complaint and the nine issues of the newspaper in evidence (Rec., 356); appellant objected to the introduction of the evidence on the ground that the law under which the evidence was offered was unconstitutional for the same reasons as were set forth in the answer (Rec.,

356-359.) The court overruled the objection and defendant excepted. (Rec., 359.) Thereafter the District Court made its findings of fact and conclusions of law, and final judgment was entered January 19, 1929. (Rec., 360-365.) It was thereby adjudged that The Saturday Press was a malicious, scandalous and defamatory publication constituting a public nuisance, and that it be abated; that the defendants be perpetually enjoined and restrained from producing, editing, publishing, circulating, having in their possession, selling or giving away any publication whatsoever which is a malicious, scandalous or defamatory newspaper, as defined by law; and that the defendants be perpetually enjoined and restrained from further conducting said nuisance under the name and title of The Saturday Press or any other name or title. (Rec., 364-365.)

From this final judgment of the District Court the appellant again appealed to the Supreme Court of Minnesota (Rec., 365), and assigned as error that the statute violated each of the three prohibitions contained in the first section of the Fourteenth Amendment to the federal Constitution, was in excess of the police power in violation of that amendment, and violated several provisions of the State Constitution. (Rec., 367-371.) The Supreme Court of Minnesota rendered an opinion (Rec., 377-378), wherein it held that the statute does not violate the Constitution of the United States, and affirmed the judgment of the court below (..... Minn. ....., 228 N. W. 326). The court said:

> "The claim is advanced that the statute is in contravention of article I, Sec. 3 of our state constitution relating to the liberty of the press, and also that it violates the due process clause of both article I, Sec. 7, of our state constitution and the Fourteenth Amendment to the Constitution of the United States. In our opinion the laws of 1925 c. 285, violate neither the state nor the federal constitution."

Appellant filed a petition for re-argument (Rec., 391-392) which was denied on January 10, 1930 (Rec., 394) and the Supreme Court of Minnesota entered its judgment of affirmance on February 25, 1930 (Rec., 379.) From this judgment an appeal was taken to this court on April 2, 1930. (Rec., 384-385.)

Howard A. Guilford, the sole co-defendant of appellant in this cause, was served by appellant with notice, on February 1, 1930, to join with appellant in this appeal. (Rec., 372.) Howard A. Guilford, having failed so to join, appellant moved for an order of severance from his co-defendant for the purpose of an appeal to the Supreme Court of the United States. (Rec., 373-374.) This motion was granted on April 2, 1930. (Rec., 375-376.)

It thus appears that the federal questions presented by the assignments of error in the appeal now before this Court were raised at the beginning of the case, were presented on appeal, and were passed upon by the Supreme Court of Minnesota. The opinion of the Supreme Court of Minnesota filed December 20, 1929 (Rec., 377-378) with the judgment entered thereon February 25, 1930 (Rec., 379) constitute a final judgment of the highest court of the State of Minnesota in which a decision in the suit could be had; the validity of Chapter 285, Sessions Laws, 1925, was therein drawn in question on the ground of its being repugnant to the Constitution of the United States and the decision was in favor of its validity and against the claims of appellant that the statute violated the federal Constitution.

D.

Cases believed to sustain jurisdiction.

The following decisions are believed to sustain the jurisdiction of this court of this appeal:

1. Freedom of speech and press is a liberty protected by the Fourteenth Amendment:

Fiske v. *Kansas*, 274 U. S. 380.
Whitney v. *California*, 274 U. S. 357.
Gitlow v. *New York*, 268 U. S. 652.

2. Freedom of speech and press is a privilege and immunity of a citizen of the United States protected by the Fourteenth Amendment:

United States v. *Hall*, 26 Fed. Cas. No. 15, 282.

3. Foreign language act cases:

Meyer v. *Nebraska*, 262 U. S. 390.
Bartels v. *Iowa*, 262 U. S. 404.
Yu Cong Eng v. *Trinidad*, 271 U. S. 500.
Farrington v. *Tokushige*, 11 F. 2d (C.C.A. 9th Cir.) 710, affirmed: 273 U. S. [illegible].

4. Words, to be prohibited, must create a clear and present danger of substantive evil to the state:

Schenck v. *United States*, 249 U. S. 47.

5. A lawful use may not be prohibited along with an unlawful use even under the doctrine of nuisance:

Lawton v. *Steele*, 152 U. S. 133.

6. The right to follow an occupation is a property right protected by the Fourteenth Amendment:

Louis K. Liggett Company v. *Baldridge et al.*, 278 U. S. 105.

This court has apparently never passed upon the precise question here involved, that is, the right of a state to declare a newspaper a nuisance and wholly to abate it, but in the so-called "Syndicalism Act Cases" cited above, this court has thrice held that freedom of speech is protected by the Fourteenth Amendment; and the so-called "Foreign-Language Act Cases" cited above, are analogous. We respectfully submit that these cases and the others, cited above, of a more general application, are authorities sustaining the jurisdiction of this court in the present case.

Respectfully submitted,

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Attorneys for Appellant.

KIRKLAND, FLEMING, GREEN & MARTIN,
LATIMER & LATIMER,
Of Counsel.

FILE COPY

No. 91

FILED
DEC 12 1
CHARLES ELMORE

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1930.

J. M. NEAR,

Appellant,

ads.

STATE OF MINNESOTA *ex rel.* FLOYD B. OLSON, COUNTY ATTORNEY OF HENNEPIN COUNTY, MINNESOTA,

Appellee.

APPELLANT'S BRIEF

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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1930.

No. 91

J. M. NEAR,
Appellant,
ads.
STATE OF MINNESOTA *ex rel.* FLOYD B. OLSON, COUNTY ATTORNEY OF HENNEPIN COUNTY MINNESOTA,
Appellee.

APPELLANT'S BRIEF

OPINIONS BELOW.

The District Court for the Fourth Judicial District, County of Hennepin, Minnesota, rendered an unreported memorandum opinion, attached to its order overruling the demurrer, on December 9, 1927. (Rec., 336-338.)

The Supreme Court of Minnesota rendered an opinion on appeal sustaining the interlocutory order of the District Court overruling the demurrer. This opinion is reported in 174 Minn. 457. (Rec., 340-349.)

The Supreme Court of Minnesota rendered its second and final opinion on appeal sustaining the final judgment and decree of the District Court. This opinion is reported in 179 Minn. 40. (Rec., 372-373.)

STATEMENT OF JURISDICTION.

The appellant has already complied with the requirements of Rule 12 of the rules of this Court respecting the statement showing basis of jurisdiction of this case, which statement is on file in this court, and appellant does not, therefore, include such a statement in this brief.

A CONCISE STATEMENT OF THE CASE.

Under Chapter 285, Session Laws of Minnesota, 1925 (Mason's Minnesota Statutes, 1927, 10123-1 to 10123-3) set forth in the Appendix, appellant and his copartner, Howard A. Guilford, doing business under the firm name "The Saturday Press" were forbidden by temporary injunction (Rec., 1, 2) without notice, on *ex parte* hearing, without trial by jury, and without protection of a bond, "to produce, edit, publish, circulate have in their possession, sell or give away" any future editions of The Saturday Press or "any publication known by any other name whatsoever, containing malicious, scandalous and defamatory matter of the kind alleged in plaintiff's complaint herein or otherwise." The injunction was granted on November 22, 1927, and was to extend until the hearing on the order to show cause, which hearing was set for December 19, 1927.

The only evidence before the court on this *ex parte* hearing was the bill of complaint verified by relator.

The complaint alleges that appellant and Guilford were engaged in the business of regularly and customarily producing, editing, etc., a malicious, scandalous and defamatory newspaper and that the same constituted a public nuisance. Nine weekly issues of The Saturday Press were attached to the bill of complaint as exhibits. The complaint alleges that the first two issues, September 24th and October 1st, were "largely devoted to malicious, scandalous and defamatory articles concerning one Charles G. Davis and other persons, all of which more fully appears in Exhibit 1" and 2. (Rec., 5.) There is no specification in the complaint of the particular words relied upon as defamatory of Davis or "other persons."

The other issues are alleged to be defamatory of the following named persons "and other persons," again without specifying the exact defamatory matter complained of or naming the "other persons":

1. Frank W. Brunskill, Chief of Police of Minneapolis. 2. Two Minneapolis newspaper corporations. 3. Floyd B. Olson, the relator in this case. 4. Melvin C. Passolt. 5. George E. Leach, Mayor of the City of Minneapolis. 6. Charles G. Davis, a member of a law enforcement league. 7. The Jewish race. 8. "The members of the Grand Jury of Hennepin County, Minnesota, duly impaneled and sworn on November 7, 1927, and now holding office." (Rec., 5, 6 and 7.)

The general tenor of these nine issues is that a Jewish gangster, Mose Barnett, was in control of gambling and other vice in the City of Minneapolis and that law enforcing officers and agencies were not energetically performing their duties to rid the city of organized crime. The Chief of Police is charged with participation in graft; the County Attorney is charged with knowledge of these existing conditions and with taking no steps to remedy them; Davis and Leach, the Mayor, are charged with inefficiency; the two newspaper corporations are charged with timidity for not exposing conditions. The Jewish gangsters in the Mose Barnett gang are spoken of in uncomplimentary terms, but all intention to libel the Jewish race is disclaimed. (Rec., 257-8; 323-4; 280.) One member of the Grand Jury, unnamed, is stated to be in sympathy with the gangsters, but certain members are stated to be worthy and conscientious. (Rec., 334.) A special grand jury is said to be necessary not only to clear up the general crime situation, but to clear up the attempt to assassinate Guilford, who was shot by gangsters after the first issue of the newspaper appeared on the stands. (Rec., 317; 334-5; 45.)

It is conceded by appellant that the issues complained of are defamatory *per se* of the individuals mentioned in the bill of complaint and enjoinable as such under the Statute (*if constitutional*) whether true or untrue, whether privileged or unprivileged, and whether fair or unfair comment upon public officials and public affairs.

Appellant and Guilford demurred and brought up the notice to show cause on December 9, at which time the demurrer was overruled and the temporary injunction continued in force. Appellant appealed to the Supreme Court of Minnesota raising the constitutional questions.

After affirmance by the Supreme Court of Minnesota of this order (Opinion of Supreme Court of Minnesota, 174 Minn. 457; Rec., 340-9) appellant filed his answer in the District Court (Rec., 349), admitting publication of the issues complained of but denying that the same were malicious, scandalous or defamatory and again asking the protection of the State and Federal Constitutions.

The trial (Rec., 356-359) consisted of the offer in evidence by the State of the nine issues of The Saturday Press and the sworn bill of complaint. Appellant's objection to the reception of such evidence was overruled. A permanent injunction was then issued (Rec., 364) which, we shall point out, was not less sweeping than the temporary injunction.

On appeal to the Supreme Court of Minnesota, appellant again raised the federal questions but the decree of the District Court was affirmed. (Rec., 374; Opinion, 179 Minn. 40; Rec., 372-3.) His petition for rehearing was denied (Rec., 379).

Guilford has been duly severed as a party in this cause. (Rec., 369-372.)

SPECIFICATION OF THE ASSIGNED ERRORS INTENDED TO BE URGED.

The errors intended to be urged are those set forth in the Assignment of Errors (Rec., 375; 380) which in general are as follows: The Supreme Court of Minnesota erred in holding that the State of Minnesota has neither made nor enforced any law which abridges the privileges and immunities of appellant under the Fourteenth Amendment; and that the State of Minnesota has not deprived him of liberty or property without due process of law under that Amendment:

1. The Minnesota Statute and the authority authorized to be exercised thereunder are not within the police powers of the State.

2. The Minnesota Statute abridges the constitutional right of appellant to pursue a lawful vocation in a lawful way.

3. The Minnesota Statute revives the obsolete doctrine of libels on government and thus abridges the privilege of appellant to criticize the federal government or its agents, such as a federal grand jury or officer.

4. It is not within the police power of the State to declare that defamation is a nuisance and to provide for its abatement by injunction.

5. The Minnesota Statute is arbitrary and unreasonable in that it goes beyond the supposed evil sought to be remedied.

6. The Minnesota Statute is oppressive and unjust in placing an unreasonable burden of proof upon appellant.

7. The Minnesota Statute permits the immediate issuance of a temporary injunction upon the bill of complaint

without any showing of damage or emergency, without hearing defendant and without bond.

8. The Minnesota Statute permits the issuance of a permanent injunction without substantive proof of malice, damage to any person, or public injury, and without proof that appellant's publications were false, not privileged or not fair comment on public men and affairs.

9. The Minnesota Statute deprives appellant of the right of trial by jury.

10. The Minnesota Statute abridges freedom of the press.

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ARGUMENT.

I.

ANALYSIS OF THE MINNESOTA STATUTE AND ITS APPLICATION TO THE INSTANT CASE.

The first section of the Statute (Appendix) provides, in part, as follows:

> "Sec. 1: Any person who, as an individual, or as a member or employee of a firm, or association or organization, or as an officer, director, member or employee of a corporation, shall be engaged in the business of regularly or customarily producing, publishing or circulating, having in possession, selling or giving away.
>
> (a) an obscene, lewd and lascivious newspaper, magazine, or other periodical, or
>
> (b) a malicious, scandalous and defamatory newspaper, magazine or other periodical,
>
> is guilty of a nuisance, and all persons guilty of such nuisance may be enjoined, as hereinafter provided." Ch. 285, Session Laws, 1925.

The other two sections, relating to procedure, are discussed below.

The Statute by its plain terms permits the application to which it was put in the instant case. It is our intention under this heading to analyze the Statute and its construction and application in this case.

1. A temporary injunction was granted on November 22, 1927 (Rec., 2) completely suppressing the newspaper. According to this order appellant was first granted an opportunity to be heard on December 19, 1927 (Rec., 1). The hearing on the order to show cause was actually had on December 9th. (Rec., 336.) During the interval between November 22nd and December 9th, appellant was enjoined.

2. In suits for civil and criminal defamation, falsity, malice and damage are presumed if the defamation is *per se*. This rule is not unfair to the publisher because the trial is usually limited to a single charge made by him against the plaintiff or the complaining witness. The publisher has an opportunity prior to trial to collect his proof. If a newspaper libels an individual it must be prepared to prove the truth of its charge or that it was privileged, or that it was merely comment upon proved or admitted facts; but no newspaper could at an instant's notice prove the truth of every defamatory statement contained in a single issue even though evidence of truth could easily be collected in due time. Yet the Minnesota Statute provides that a newspaper shall be temporarily enjoined until it collects the evidence necessary to prove the truth. In the instant case on the *ex parte* motion for temporary injunction there was no proof of falsity or bad motives other than the formal presumption arising from the publication of defamation *per se*. In civil and criminal cases this presumption does not operate to the detriment of the defendant until he has failed to rebut it; here, the application of the presumption operates to the detriment of the defendant before he has been given even an opportunity to rebut it.

Furthermore, the defense of privilege and fair comment under the Minnesota Statute is not open to the newspaper, because the only defense permitted is truth when "published with good motives and for justifiable ends." For instance, taking the statement "A testified B was guilty of adultery", it would not be sufficient for the newspaper to prove that A did so testify in a pending divorce proceeding and that the newspaper fairly and without malice reported A's testimony. In order to lift the temporary injunction the newspaper would be required to prove that B actually committed adultery. It was only after many years of evolution that the publication of fair

reports of the proceedings of legislative and judicial bodies was recognized as privileged; the Minnesota Statute repudiates the doctrines thus evolved.

3. Under this Statute there need not be, and in the case at bar there was not, any showing of irreparable injury or any public emergency requiring the temporary injunction without notice; the court's discretion is exhausted in determining the sufficiency of the evidence establishing the commission of the offense. The matter of instituting the proceeding rests, first, with the County Attorney, second, with the Attorney General of the State, and finally, if upon written request of a reputable citizen both of them fail to institute proceedings, that citizen may institute the proceedings in the name of the State of Minnesota. In the instant case the County Attorney who instituted the proceedings was one of the persons who, according to the bill of complaint, was defamed. (Par. 10, 11 of the bill of complaint; Rec., 6, 7.) The question of irreparable injury and public emergency rests therefore not in the discretion of the court, but in the discretion of the person smarting from censure.

4. The temporary injunction was issued without any bond furnished by the plaintiff or by the relator to make the defendant whole should the writ have been issued improvidently:—not even a bond for costs.

5. The Statute itself does not authorize the restraint of a particular libel or the repetition of a particular libel,—such a specific injunction would be invalid. The court therefore in the instant case ordered that

> "said defendants Howard A. Guilford and J. M. Near and divers and sundry other persons whose names are to the plaintiff unknown, be in the meantime restrained and they are hereby forbidden to produce, edit, publish, circulate, have in their possession, sell or give away any publication known by any other name whatsoever con-

taining malicious, scandalous and defamatory matter of the kind alleged in plaintiff's complaint herein or otherwise." (Rec., 2.)

If, therefore, appellant had in his possession any newspaper containing defamatory matter of the kind "alleged in plaintiff's complaint herein or otherwise," he would be in contempt. This forbids him to read any newspaper containing defamation. It certainly forbids him to publish any newspaper containing defamation. And all modern newspapers must and do contain defamation. Every newspaper "regularly and customarily" contains matter which is defamatory *per se;* that X is held by the police for murder; that Z is dead; that A B & Co. has been adjudged bankrupt; that A testified B was guilty of adultery. Each of these statements is defamatory *per se.* True, the newspaper would escape civil and criminal liability if it established any of the affirmative defenses; but these affirmative defenses would not prevent the issuance of the temporary injunction in the instant case. Hence appellant in effect was temporarily (and later permanently) deprived of the right to publish *any* newspaper.

6. The District Court rendered a memorandum opinion upon the overruling of the demurrer (Rec., 336) in which it was specifically held (see last sentence page 337, Rec.) that one of the objects of the Statute was not alone to protect against libels on individuals but also against libels on a creed, nationality or class where the effect on the public might be most harmful. As pointed out in the statement of the case, one of the grounds for suppressing The Saturday Press was because it defamed unnamed members of the Grand Jury of Hennepin County and censured the official conduct of officers of the City and County government. Under the Statute it is plain that adverse criticism of the acts of government or agencies of government would

likewise be grounds for suppression,—even criticism of acts of the federal government or of its agencies.

If this is constitutional, the Alien and Sedition Laws are back again in a new and aggravated form. Where the Alien and Sedition Laws provided punishment after trial by jury for past censure of official acts, the Minnesota Statute provides for a trial without a jury and for a judgment foreordaining punishments ($1,000 fine or twelve months' imprisonment) for future censure of such acts.

7. After appellant's demurrer was overruled, the impossibility of pleading and proving the truth without prohibitive expense and long preparation (especially in view of the fact that appellant's revenue had been cut off by the temporary injunction) became apparent. For instance, the allegations of the bill concerning the issue of November 19th, were as follows:

> "11. That on November 19, 1927, said defendants did publish and circulate an edition of said publication which was largely devoted to malicious scandalous and defamatory articles concerning one George E. Leach, said Charles G. Davis, said Frank W. Brunskill, said Floyd B. Olson, the Jewish Race, the members of the Grand Jury of Hennepin County, Minnesota, duly impaneled and sworn on November 7th, 1927, and now holding office, *and other persons*, all of which more fully appears in Exhibit '9', which is hereto attached and made a part hereof as though pleaded herein." (Italics ours.)

Exhibit 9 covers 35 pages of the record. (Rec., 300-335.)

Appellee not having specified the particular defamations contended for as constituting a nuisance, the defendant must justify all imputations against the persons named and against all "other persons" mentioned in the newspaper but unmentioned in the bill of complaint. This means that every defamatory imputation in the entire issue must be

proved true,—even imputations against notorious gangsters.

It would bankrupt any modern newspaper to be suppressed until it collected evidence to prove the truth of every defamatory statement contained in a single issue, not to mention nine issues.

8. The final judgment and decree of the District Court (Rec., 364) is as broad as the temporary injunction. Paragraph 1 finds that The Saturday Press constituted a public nuisance and abates it. Paragraph 2 perpetually enjoins appellant, his co-partner and all other persons unknown claiming any right, title or interest in and to The Saturday Press or in its sale or distribution

> "from producing, editing, publishing, circulating, having in their possession, selling or giving away any publication whatsoever which is a malicious, scandalous or defamatory newspaper, as defined by law."

Our observations on the temporary injunction are equally applicable to this paragraph. The third paragraph enjoins appellant, his partner, and other parties unknown

> "from further conducting said nuisance under the name and title of said The Saturday Press or any other name or title."

This language, we contend, prevents appellant from engaging in the business of editing or publishing a newspaper.

It was conceded by appellee below that modern newspapers publish daily hundreds of defamatory statements, the majority of which are true. But, it was contended, most modern publishers are not, in the language of the decree, "engaged in the business of regularly or customarily publishing * * * a malicious, scandalous and defamatory newspaper, as defined by law," hence would not be within the purview of the Statute. The Saturday Press, it is contended, is in a category different from, say, the London Times:—both "regularly and customarily publish

malicious, scandalous and defamatory matter;" but The Saturday Press is "engaged in the business of" so doing, while the London Times is not.

But what constitutes proof that a publisher is "engaged in the business of regularly and customarily publishing, etc., a malicious, scandalous and defamatory newspaper as defined by law"? The Minnesota Statute, as applied in this case, must necessarily define The Saturday Press as such. Nine issues of The Saturday Press introduced in evidence prove the allegations of the bill of complaint. Nine issues of The London Times would prove a complaint against it. If there were nine issues of the London Times containing defamatory matter, it would be a "malicious, scandalous and defamatory newspaper," (for malice is presumed if the articles are defamatory), it would be "regularly and customarily" publishing such matter, and its publisher would be "engaged in such business." No criterion is given by the Statute, and none was given by the court, to distinguish between so-called legitimate and illegitimate newspapers.

Suppose the Minneapolis Journal had started a crusade against gangsters and had printed in nine issues substantially the same charges as here appear. Clearly a temporary injunction under the Statute could have been entered against it as well as The Saturday Press. Clearly Tweed, with Barnard and McCune on the bench, could have suppressed the New York Times and Harper's Weekly had this Statute been in force at the time of the Tweed Ring.

9. Under the Statute, truth coupled with good motives and justifiable ends is a defense to the bill of complaint; it is not a defense to a citation for contempt for violation of this injunction. *Thus appellant may be punished for telling the truth with good motives and for justifiable ends.* If appellant started another newspaper in which he cus-

tomarily and regularly published defamatory matter, he could be sentenced to jail for contempt even though such defamatory matter were true.

Furthermore, if the same matter were published in any other newspaper in Minnesota, the publisher of that paper would not be subject to contempt and, in any civil or criminal action brought against him, would have the defense of truth, privilege and fair comment. Appellant, because he has once conducted The Saturday Press, is deprived of the right to tell the truth. Thus we have the extraordinary situation wherein appellant may be punished for making a statement which could be made by X with utter impunity. This is not an increase of penalty on account of the fact that appellant is an habitual offender; it creates an offense, the commission of which depends upon who commits it and not upon the nature of the act itself.

10. As a general observation upon the Statute and its application in the instant case, it is to be noted that the Statute allows previous restraint upon publication. It in effect makes the chancellor who has issued an injunction under the Act a censor of that which may be published in the future; for no defendant would dare take the chance of being imprisoned for contempt by publishing a newspaper not submitted to the chancellor in advance of publication.

11. Although it is not charged that appellant's newspaper was "obscene, lewd or lascivious" under subparagraph (a) of the first section, yet we wish to point out that this subparagraph is equally objectionable. Obscenity, like defamation, may be punished as a crime; but, like defamation, it may not be enjoined in advance of publication.

II.

THE MINNESOTA STATUTE ABRIDGES FREEDOM OF THE PRESS.

Having pointed out the interpretation of the Minnesota Statute and the manner of its application to the case at bar, it is our purpose now to argue that the Statute denies to appellant freedom of the press. Under the next division of the argument we shall contend that freedom of the press is guarantied by the Fourteenth Amendment to the Federal Constitution. We are here concerned only with delimiting "Freedom of the Press" as a substantive right and with the violation of that right by the Statute.

In defining "Freedom of the Press," we are not confined to precedents passing upon that right under the First Amendment to the federal constitution; all precedents defining the right under state constitutions and the federal constitution and under the common law are apposite. (Hale: Law of the Press, 273.)

Although the phraseology of the guaranties of freedom of the press contained in various state constitutions is not always uniform, the scope and limits of the guaranty are uniform.†

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†The First Amendment omits the phrase "being responsible for the abuse of such right" (privilege or liberty) which is usually found in state constitutions. But this limitation is inherent in the First Amendment. (*Robertson* v. *Baldwin*, 1897, 165 U. S. 281; also the Espionage Act Cases.)

A. RESTRAINTS PREVIOUS TO PUBLICATION ARE INCOMPATIBLE WITH FREEDOM OF THE PRESS.

All of the authorities agree upon the proposition that the substantive right of freedom of the press prohibits restraints upon publication prior to such publication. This was the rule in England and is stated by Blackstone as follows:

> "This liberty [liberty of the press], when rightly understood, consists in laying no previous restraints upon publications, and not in freedom from censure for criminal matter when published. Every freeman has an undoubted right to lay what sentiments he pleases before the public; to forbid this is to destroy the freedom of the press; but if he publishes what is improper, mischievous, or illegal, he must take the consequence of his own temerity."
>
> 1 Blackstone's Commentaries, 152-153.

This is also the view in this country, as stated in *Commonwealth* v. *Blanding*, 1825, 3 Pick (Mass.) 304, 313, 15 Am. Dec. 214, wherein Mr. Chief Justice Parker gave the following definition of freedom of the press:

> "It is well understood, and received as a commentary on this provision for the liberty of the press, that it was intended to prevent all such *previous restraints* upon publications as had been practiced by other governments, and in early times here, to stifle the efforts of patriots towards enlightening their fellow subjects upon their rights and the duties of rulers. The liberty of the press was to be unrestrained, but he who used it was to be responsible in case of its abuse; like the right to keep fire arms, which does not protect him who uses them for annoyance or destruction."

The Blanding case is, of course, one of the most famous

pronouncements on the subject and it has been quoted extensively.†

We may say in passing that, contrary to Blackstone, the right extends further than the mere laying of no restraint previous to publication. In certain instances, it also protects against the abridgment of free speech and press by laying restraints (punishment) after publication. (*Schenck* v. *U. S.*, 1919, 249 U. S. 47; *Frohwerk* v. *U. S.*, 1919, 249 U. S. 204; *Debs* v. *U. S.*, 1919, 249 U. S. 211; *Abrams* v. *U. S.*, 1919, 250 U. S. 616; *Schaefer* v. *U. S.*, 1920, 251 U. S. 466; *Pierce* v. *U. S.*, 1920, 252 U. S. 239.) The Espionage Act related only to subsequent punishment; it had nothing to do with prior restrictions. But in the instant case we are not concerned with subsequent restraints. The injunction forbade future publications and therefore restrained such publications prior to the time they were published. All of the authorities which we have been able to find, or our opponents to cite, hold that such previous restraint is an abridgment of the right.

Although as we above stated, the various constitutional guaranties for a free press are differently worded, the majority of them expressly state (and all of them by inherent definition state) that one may freely speak, write and publish on all subjects "being responsible for abuse of such privilege." The responsibility attaches after publication; that is, after the abuse of the right to publish. There can be no abuse until there has been publication, therefore, there may be no restraint until there has been publication.

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†See further: *Respublica* v. *Oswald*, 1788, 1 Dall. 319; *Respublica* v. *Dennie*, 1805, 4 Yeates (Pa.) 267, 2 Am. Dec. 402; *State* v. *Butterworth*, 1928, 104 N. J. L. 579, 142 Atl. 57; *Cowan* v. *Fairbrother*, 1896, 118 N. C. 406, 24 S. E. 212, 32 L. R. A. 829; *Jones, Varnum & Co.* v. *Townsend's Ad'trix*, 1885, 21 Fla. 431, 450, 58 Am. Rep. 676.

B. IT IS AN ABRIDGMENT OF FREEDOM OF THE PRESS TO SUPPRESS A NEWSPAPER AS A NUISANCE OR OTHERWISE.

That any form of previous restraint upon speech or press is unconstitutional under the free press guaranties of state and the federal constitutions, has been so universally recognized and admitted, that we are aware of no instance, before the present case, wherein any legislature or Congress, has attempted to pass a law providing for suppression of any newspaper no matter how disreputable; and we believe it may safely be asserted that the Minnesota Statute is actually the first attempt to do so.

The fact that the guaranties contained in the various constitutions have been there for many years, the fact that during these years there have been many newspapers which have regularly engaged in the publication of malicious, scandalous and defamatory matter, and the fact that no law has ever heretofore been passed to suppress them, are alone exceedingly strong arguments to show that this Statute is in violation of the right to a free press.

But the proof of the invalidity of this law does not rest alone on the lack of precedent; in one case wherein a municipal ordinance was involved, a court expressly held that it is not within the compass of legislative action to declare a newspaper a nuisance and abate it, and in a number of others, courts have held that various other methods of suppression are unlawful. It is the purpose of this subdivision of our argument to show that this Statute goes far beyond the legitimate field of the legislative power.

Apparently there has been only one other instance of an attempt to suppress a newspaper as a nuisance. The City of Seguin, Texas, ordained that a certain newspaper, called the *Sunday Sun*, was a public nuisance and prohibited its

circulation within the city. Neill, the distributor, was arrested under the ordinance and sued out a writ of habeas corpus; the writ being denied, he appealed. Mr. Justice Davidson in *Ex Parte Neill*, 1893, 32 Tex. Cr. 275, 22 S. W. 923, 40 A. S. R. 776, speaking for the court, which held the judgment should be reversed and the relator discharged, said:

> "This ordinance is in violation of the bill of rights, and therefore void. * * * The power to prohibit the publication of newspapers is not within the compass of legislative action, in this state, and any law enacted for that purpose would clearly be in derogation of the bill of rights. * * * We are not informed of any authority which sustains the doctrine that a municipal corporation is invested with the power to declare the sale of newspapers a nuisance. The power to suppress one concedes the power to suppress all, whether such publications are political, secular, religious, decent or indecent, obscene or otherwise. The doctrine of the constitution must prevail in this state, which clothes the citizen with liberty to speak, write, or publish his opinion on any and all subjects, subject alone to responsibility for the abuse of such privilege."

The case of *Dearborn Pub. Co. v. Fitzgerald*, 1921, 271 Fed. 479, (D. C., N. D. Ohio, E. D.) deals with so many arguments that have been advanced in support of the Statute involved in this case, that we quote from it at some length. On motion of the plaintiff to enjoin interference with the sale of its newspaper, the court (Westenhaver, J.), granting the motion, said:

> "Plaintiff publishes a weekly newspaper called the Dearborn Independent. On and prior to March 14, 1921, copies of this newspaper were sold by venders upon the streets of Cleveland in the same manner as are sold local and other daily and weekly newspapers. On this date, four persons thus employed were arrested by order of the defendant, Frank Smith, chief of police, acting under the express direction of the

other two defendants. They were, after their arrest, charged by warrant and are now held for trial upon a criminal charge of offering for sale a certain indecent and scandalous publication, to-wit, the Dearborn Independent; the same being calculated to excite scandal and having a tendency to create breaches of the peace, in violation of Section 1770, Rev. Ord. of the City of Cleveland. * * *

Immediately thereafter, and upon application of plaintiff's representatives to defendants, they were notified by the latter that no further sales of the Dearborn Independent would be permitted upon the streets of Cleveland; * * * but that no objection to such sales would be made if the so-called anti-Semitic or anti-Jewish articles appearing therein were omitted. Its sale at newsstands and in shops, however, was not forbidden, and has not been interfered with. * * * As a result, plaintiff's publication has been excluded from sale by news venders on the city streets, and its circulation reduced approximately three-fourths.

* * * The necessary effect of such action is to censor in advance the contents of the newspaper, by preventing its sale in the same manner as all other newspapers are sold, so long as it contains articles of like character. * * *

* * * The publication complained of cannot by any stretch of the imagination be classified as indecent, obscene, or scandalous; but if it were, the limit of the city's power would be to conduct a prosecution for the specific offense thus committed, and not the establishment of a censorship in advance of future publications, and prohibition generally of the sale thereof upon the streets, in the same manner as other publications may be sold. * * *

That the publication has a tendency to create breaches of the peace is equally without foundation in fact or in law. * * * If it be assumed that the article might tend to excite others to breaches of the peace against people of the Jewish race, the reply is plain. It is the duty of all officials charged with preserving the peace to suppress firmly and promptly all persons guilty of disturbing it, and not to forbid innocent persons to exercise their lawful and equal rights."

In 1918 the City of Mt. Vernon, New York, ordained that no person should print, sell, or distribute newspapers in the city without first obtaining a license from the common council. This body was given absolute discretion to grant or refuse such license and power to revoke it at any time without notice. In *Star Co.* v. *Brush, et al.*, (Sup. Ct.), 104 Misc. 404, 172 N. Y. S. 320, 851, the plaintiffs sued to enjoin the enforcement of the ordinance. The court (Donnelly, J.) in granting the injunction, said:

> "Under the provisions of this ordinance as it now stands the defendants would have the power to suppress the circulation of any newspaper which criticized adversely any of their official acts by revoking without notice its license and at the same time permitting those newspapers which praise their official line of conduct to circulate freely without molestation. I fail to see how the freedom of the press, guaranteed by our organic law, can exist under such conditions. As was stated by Mr. Justice Giegerich, the powers of the common council enumerated in the charter are those delegated to it by the Legislature, and the Legislature certainly cannot delegate powers which it does not itself possess, and the Legislature may not pass a law which contravenes any provision of the state Constitution."

This case was followed and injunctions were issued under similar circumstances in the cases of *New Yorker Staats-Zeitung* v. *Brush*, 1918, 170 N. Y. S. 993, and *German Herold Pub. Co. of New York City, Inc.*, v. *Brush*, 1918, 170 N. Y. S. 993.

The contention that a newspaper may be suppressed merely because it is likely to cause a public disturbance, was raised and promptly denied in the New Jersey Court of Chancery. The township of North Bergen, in that state, adopted a resolution forbidding the circulation of newspapers published in the German language. In *New Yorker*

Staats-Zeitung v. *Nolan*, 1918, 89 N. J. Eq. 387, 105 Atl. 72, the court said:

> "If the township may prevent the circulation of a newspaper for no reason other than that some of its inhabitants may violently disagree with it, and resent its circulation by resorting to physical violence, there is no limit to what may be prohibited. The residence in the township of a person obnoxious to the vast majority of its inhabitants may be prevented. The carrying on of a perfectly legitimate business may be prevented because, to stop it, inhabitants objecting to it, may resort to violence. The duty of the township officials is to suppress the disorder and to punish those who are guilty of the illegal act, not to prevent the performance of the legal act."

On February 15, 1908, the higher police officers of the City of Kingston, New York, gave orders to other police officers to enter the building occupied by the *Ulster Square Dealer* and to seize and to carry away some 3,700 copies of that newspaper intended to be published and circulated on the following day. The plaintiff newspaper, fearing a repetition of this performance, asked for an injunction against the defendants forbidding such interference. The court (Carr, J.) in *Ulster Square Dealer* v. *Fowler*, (Sup. Ct.) 1908, 58 Misc. 325, 111 N. Y. S. 16, said:

> "Affidavits have been submitted to show that this publication has injuriously affected the moral tone of large numbers of the community, and the opinion is expressed therein by the citizens who made the affidavits, that some method should be put in force for the suppression of the newspaper. The reading of the various copies of this newspaper submitted on the argument indicate very clearly to my mind that the publication in question is in the extreme apparently reckless and scurrilous. It may be easily understood how these worthy citizens of Kingston are shocked and disgusted by the manner and the method of this publication. At the same time, however libelous the subject-matter may be and however offensive to the good moral tone of the community, there is but one way to remedy

the situation, and that is by rigid adherence to the law of the land. * * *

Much of the matter in the paper published by the plaintiff consists of rather harsh and perhaps unjustifiable criticism upon the public and private lives of some of the citizens of Kingston. The plaintiff has the constitutional right to publish its newspaper, and is plainly answerable to the criminal law for the manner in which it avails itself of this right. * * *

No one can take unto himself the right of suppressing in advance the publication of the printed sentiments of another citizen on any public or private question. * * * The plaintiff has the right to publish a newspaper; and defendants cannot determine for themselves in advance as to the propriety of that publication and set about to suppress it every time the plaintiff attempts to publish it without committing a continuous trespass against the plaintiff's property rights. The situation seems to me to be quite a simple one. If injunctive relief cannot be granted under these circumstances, then it may become practically impossible in the future to publish any newspaper, whenever a large popular sentiment has been formed against the publication."

It has been asserted that the constitution was never intended to be a shield for malice, scandal, and defamation when untrue, or published with bad motives, or for unjustifiable ends. We take issue with this contention. Its fallaciousness is demonstrated by the above quotation from the New York case. The contrary is true; every person *does* have a constitutional right to publish malicious, scandalous, and defamatory matter though untrue, and with bad motives, and for unjustifiable ends, *in the first instance*, though he is subject to responsibility therefor *afterwards*.

No sane government will ever suppress harmless and colorless statements, or purely moral narrative news, and the like; there is no need of a constitutional protection for these latter publications; if they alone were protected by the con-

stitution, the guaranty would never have been inserted. But there is great need for it to protect the other class; when the legislature takes upon itself to decide in advance what may and may not be published, then it is time to invoke the constitution and it was exactly for this purpose that the framers placed the guaranty of free speech and press in that instrument.

The control of the press is not given to the legislature but is reserved to the people; if there is an abuse of the liberty it is for the people to decide so in the persons of the jurymen, not for the legislature to restrain it in advance. If a defendant publishes matter which constitutes an abuse of the liberty of the press, he has a constitutional right to put himself "upon the country"; he has a right to go before the people represented by the jury; and it is only in this manner that the press can be protected when it launches into attacks (which are always defamatory and scandalous, hence presumed malicious) on corrupt and despotic governments.

C. IT IS EVEN AN ABRIDGMENT OF FREE SPEECH AND PRESS TO RESTRAIN THE PUBLICATION OF A PARTICULAR SLANDER OR LIBEL.

The general rule is that equity will not under any circumstances enjoin defamation as such, and this for two reasons: such action would violate the constitutional guaranty of freedom of the press, and it also would violate the right to trial by jury.†

In a famous Louisiana case, plaintiff represented that the defendants, publishers of a newspaper, had published

†17 R. C. L., p. 371; 14 R. C. L., p. 371; 20 R. C. L., p. 212; 6 R. C. L., p. 257; 1 Joyce on Injunctions, 1909, Secs. 59, 110, 511; Lewis & Spelling on Injunctions, 1926, p. 519; Newell on Slander and Libel, 1924, p. 244.

cartoons and editorials libeling the plaintiff, and injuring him in his reputation. Fearing that the same would be repeated, plaintiff obtained an injunction prohibiting defendants from publishing in any and all future issues of the paper any defamatory matter concerning him. Defendants subsequently libeled the plaintiff, were cited for contempt, and jailed. Defendants applied for a writ of prohibition praying that the proceedings be declared void. Mr. Justice Fenner, declaring the proceedings void, said, in *State ex rel. Liversey* v. *Judge of Civil District Court*, 1882, 34 La. Ann. 741:

"Suppose the Legislature were to pass a law authorizing any person on presenting a petition to a court representing that he feared that the proprietors of a newspaper, or other parties, would publish, or cause to be published, libelous or defamatory matter concerning him, to obtain from the court an injunction restraining the publication of such matter, and authorizing the court to grant such injunction, and, during its pendency, to supervise the publications of such defendants on rules for contempt, and to decide for itself, without trial by jury or in ordinary form, and without appeal, upon whether the same were libelous and defamatory, in contravention of the injunction, and in case of so finding, to punish the defendants for contempt, and, under like circumstances, to repeat said punishment as often as occasion might require—would any one question the unconstitutionality of such a law?

It would establish a complete censorship over the press so enjoined. No legal distinctions are nicer than those concerning libelous and defamatory publications. Some are privileged and others non-privileged. How should defendants determine whether their publications were innocent or offensive? What they consider innocent, the judge might consider libelous. There would be no safe course, except to take the opinion of the judge beforehand, or to abstain entirely from alluding to the plaintiff. What more complete censorship could be established? Under the operation of such a law, with a subservient or corrupt judiciary

the press might be completely muzzled, and its just influence upon public opinion entirely paralyzed. Such powers do not exist in courts, and they have been constantly disclaimed by the highest tribunals of England and America. It has passed into a settled rule of jurisprudence, that 'courts of equity will not lend their aid to enjoin the publication of libels or works of a libelous nature; even though the libelous publication is calculated to injure the credit, business or character of the person against whom it is directed.' High on Injunctions, Secs. 1015, 1093, and numerous authorities cited. * * *

* * * no court in England or in this country has ever, in modern times, assumed the power to issue a sweeping injunction prohibiting a person generally from publishing any defamatory matter whatever concerning another, or 'from naming or alluding to him in any way calculated to disparage him in the estimation of the community,' like the one issued in the present case. We are compelled to hold that if there existed any law authorizing a court to issue such an injunction, it would be grossly unconstitutional. The exercise of such authority by a court is a direct violation of the Constitution, *ultra vires*, and is absolutely null and void."

The judge, in the above opinion, has postulated a case, and set it up as a bad example, almost identical with this case.

One of the leading cases on this subject is *Marx & Haas Jeans Clothing Co.* v. *Watson*, 1902, 168 Mo. 133, 67 S. W. 391, 56 L. R. A. 951, 90 A. S. R. 440. In this case plaintiff was involved in labor disputes with its employees; the latter published a circular setting out their side of the case and sent copies to various persons requesting them not to do business with plaintiff. Plaintiff sought to enjoin the employees from such acts. Mr. Justice Sherwood, dismissed the bill; after holding that not only is freedom of speech expressly guaranteed as such, but that it is also impliedly guaranteed as a liberty within the protection of the due process clause, he said:

"* * * wherever the authority of injunction begins, there the right of free speech, free writing, or free publication ends. * * * If these defendants are not permitted to tell the story of their wrongs, or, if you please, their supposed wrongs, by word of mouth, or with pen or print, and to endeavor to persuade others to aid them by all peaceable means in securing redress of such wrongs, what becomes of free speech, and what of personal liberty? The fact that in exercising that freedom they thereby do plaintiff an actionable injury does not go a hair toward a diminution of their right of free speech, etc., for the exercise of which, if resulting in such injury, the Constitution makes them expressly responsible. But such responsibility is utterly incompatible with authority in a court of equity to prevent such responsibility from occurring."

We submit that the logic of this case, in so far as freedom of the press is concerned and excluding the question of boycott, is unanswerable. The defendant has a constitutional right to speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. In the words of the court above, *such responsibility is utterly incompatible with authority in a court of equity to prevent such responsibility from occurring.*

In a somewhat earlier case the same court held that an injunction could not issue because it would violate the right to trial by jury: *Flint* v. *Hutchinson Smoke Burner Co.*, 1892, 110 Mo. 492, 19 S. W. 804, 16 L. R. A. 243, 33 A. S. R. 476.

Missouri's most frequently cited case in this field of law is *Life Association of America* v. *Boogher*, 1876, 3 Mo. App. 173. Although in an intermediate court, it is a leading case. Plaintiff association prayed for an injunction on the ground that defendant Boogher and another had for a long time engaged in the publication of false and libelous statements for the purpose of injuring it, and that the defendant was wholly insolvent. The court refused the injunction

and conclusively answered the claim that insolvency of defendant was a ground for restraining libel:

> "It is obvious that, if this remedy be given on the ground of the insolvency of the defendant, the freedom to speak and write, which is secured, by the Constitution of Missouri, to all its citizens, will be enjoyed by a man able to respond in damages to a civil action, and denied to one who has no property liable to an execution. We are of opinion that this discrimination was not intended by the framers of the organic law."

There are four New York cases on this subject, one of which, at least, has been of tremendous importance in directing the trend of the law. *Brandreth* v. *Lance*, 1839, 8 Paige Ch. (N. Y.) 24, 24 Am. Dec. 368. The defendant had caused to be written and printed an article which was a gross libel on the plaintiff, intending to circulate it widely in order to hold the plaintiff up to scorn and ridicule. Plaintiff prayed an injunction. The chancellor, dismissing the bill, said:

> "It is very evident that this court cannot assume jurisdiction of the case presented by the complainant's bill, or of any other case of the like nature, without infringing upon the liberty of the press, and attempting to exercise a power of preventive justice, which, as the Legislature has decided, cannot safely be entrusted to any tribunal consistently with the principles of a free government. 2 Rev. Stat. 737, sec. 1 and Revisers' note. This bill presents the simple case of an application to the court of chancery to restrain the publication of a pamphlet which purports to be a literary work, undoubtedly a tale of fiction, on the ground that it is intended as a libel upon the complainant. The Court of Star Chamber in England once exercised the power of cutting off the ears, branding the foreheads, and slitting the noses of the libelers of important personages. Hudson's Star Chamber, 2 Collect. Jurid. 224. And, as an incident to such a jurisdiction, that court was undoubtedly in the habit of restraining the publications of such libels by injunction. Since that court was abolished, however, I be-

lieve there is but one case upon record in which any court, either in this country or in England, has attempted by an injunction or order of the court, to prohibit or restrain the publication of a libel, as such, in anticipation. In the case to which I allude the notorious Scroggs, Chief Justice of the Court of King's Bench, and his associates, decided that they might be safely entrusted with the power of prohibiting and suppressing such publications as they might deem to be libelous. They accordingly made an order of the court prohibiting any person from printing or publishing a periodical, entitled 'The Weekly Packet of Advice from Rome, or the History of Popery.' The House of Commons, however, considered this extraordinary exercise of power on the part of Scroggs as a proper subject of impeachment. 8 How. St. Tr. 198. * * *

The utmost extent to which the court of chancery has ever gone in restraining any publication by injunction has been upon the principle of protecting the right of property."

In *Marlin Firearms Co.* v. *Shields*, 1902, 171 N. Y. 384, 64 N. E. 163, 59 L. R. A. 310, the plaintiff corporation, a manufacturer of firearms, brought suit to restrain defendant, the proprietor of a magazine, from publishing any article falsely disparaging plaintiff's rifle. Mr. Chief Justice Parker, delivering the opinion of the court, forcefully denounced all attempts to restrain publications by injunction, as being a censorship of the press, and pointed out the danger (which we have discussed in another part of this argument) which lurks in the subsequent contempt proceedings:

"But the precedent which the plaintiff seeks to establish would open the door for a judge sitting in equity to establish a censorship not only over the past and present conduct of a publisher of a magazine or newspaper, but would authorize such judge by decree to lay down a chart for future guidance in so far as a plaintiff's property rights might seem to require, and, in case of the violation of the provisions of such a decree, the usual course and practice of equity would neces-

sarily be invoked, which would authorize the court to determine whether such published articles were contrary to the prohibitions of the decree, and, if so found, punishment as for a contempt might follow. Thus a party could be punished for publishing an article which was not libelous, and that, too, without a trial by jury."†

Nebraska and Ohio are in accord: *Howell* v. *Bee Pub. Co.*, 1916, 100 Neb. 39, 158 N. W. 358; *Dopp* v. *Doll*, 1895, 9 O. Dec. Repr. 428, 13 Wkly. Law Bul. 335.

Four pertinent cases have arisen in Texas. In *Strang* v. *Biggers*, 1923, 252 S. W. (Tex. Civ. App.) 826, the plaintiff filed suit to restrain the defendants, publishers of a newspaper, from publishing libelous charges concerning the plaintiff, and alleged a conspiracy. A temporary injunction was issued but dissolved on plaintiff's failure to support his allegation of conspiracy. Mr. Chief Justice Jones, affirming the decision, said:

> "Freedom of speech will necessarily end when supervision by a court of equity of the expressions and sentiments of the individual is allowed to begin. . . . Appellant has cited a number of cases in which courts of equity had, by injunction restrained parties from indulging in verbal or written threats when same amounted to intimidation or coercion, . . . also cases in which parties had conspired together to destroy the good name and the property rights of another and, in furtherance of such conspiracy, were circulating libelous publications. It was the act and conduct of the parties in these cases that called for the restraining power of a court of equity and not the abuse and violation of the right of freedom of speech. Such cases are not analogous to the one at bar."

This decision is in line with *Gompers* v. *Buck's Stove &*

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†The other New York cases, holding such injunctions unconstitutional, are: *New York Juvenile Guardian Society* v. *Roosevelt*, 1877, 7 Daly (N. Y.) 188; *Stuart* v. *Press Pub. Co.*, 1903, 83 App. Div. 467, 82 N. Y. S. 401; see also *Moser* v. *Press Pub. Co.*, 1903, 59 Misc. Rep. 78, 109 N. Y. S. 963.

Range Co., 1911, 221 U. S. 418, holding that restraints on threats, intimidation, coercion, and conspiracy are not restraints on speech or writing but on acts and conduct. We shall, later on, consider briefly this type of case and show that it affords no analogy for the support of a statute which permits the enjoining of defamation as such.†

Three well-considered cases have arisen in the lower federal courts, two in Alabama and the other in South Dakota. In *Willis* v. *O'Connell*, 1916, 231 Fed. 1004 (D. Ct. S. D. Ala.) plaintiff had the exclusive selling agency in a certain territory of a proprietary medicine called "Tan-lac," in connection with the selling of which he was wont to publish testimonials of users. Defendant, publisher of a newspaper, printed articles attacking the medicine and those giving testimonials. Plaintiff sought an injunction. District Judge Clayton dismissed the bill, with the following remarks:

> "The good citizen has the right to enjoy and use his reputation free from direct defamation as well as from vile innuendoes of a skulduddery artist who may employ the picturesque slang of the street for his embroidery. And yet, for the protection or vindication of his good name the citizen must be remitted to his remedy at law—to a civil action, or criminal prosecution, or both. This must be so, for a court of chancery in this country has never had the power to enjoin the commission of such a wrong, and cannot by stretch of authority exercise such power, and besides the Constitution of the United States, and in this jurisdiction the Constitution of Alabama, both alike, positively forbid. * * * *
>
> But if the law did not inhibit, doubtless courts of

†The other Texas decisions, holding that it is unconstitutional to enjoin defamation, are: *C. R. Miller Mfg. Co.* v. *Rogers*, 1926, 281 S. W. (Tex. Civ. App.) 596; *Mitchell* v. *Grand Lodge F. & A. M.*, 1909, 56 Tex. Civ. App. 306, 121 S. W. 178, and the leading case of *Ex parte Tucker*, 1920, 110 Tex. 335, 220 S. W. 75.

chancery would be justified by the argument of *ab inconvenienti* in refusing the use of its extraordinary powers to censor the public press. It is manifest that the assumption of such duty would impose upon the courts a task of insuperable difficulty."

The court discussed individually the cases cited by the plaintiff where injunctions were granted and found that they were all cases (1) where patent rights were infringed, (2) where unlawful violence was threatened and imminent, and (3) where unfair and illegal methods were resorted to by competitors in trade; and concluded that none of them afforded any authority for granting an injunction in this case. The court then went on to say:

> *"This court cannot restrain the libel of the plaintiff or his medicine, and for greater reason, certainly, the court cannot at the instance of the plaintiff, restrain a libel of persons not parties to this suit.*
> * * * Again ought not the question of whether the defendant is, or is not, warranted in making such publications to be determined by a jury? Moreover, under the facts presented by the bill, is not the defendant's side of this controversy justiciable in a court of law, and only in such a court? I think so. * * * We cannot conceive of the administration of a government of laws, and not of men, without recognizing the right of trial by jury." (Italics ours.)

The second case is *Citizen's Light, Heat & Power Co.* v. *Montgomery Light & Water Power Co.*, 1909, 171 Fed. 553 (Cir. Ct. M. D. Ala. N. D.). Plaintiff and defendant were competitors; defendant published defamatory statements concerning plaintiff and attempted to induce plaintiff's customers to break their contracts promising to indemnify the latter for any damages they might have to pay for so doing. Plaintiff prayed an injunction restraining defendant from defaming plaintiff and indemnifying the customers. The court granted an injunction against indemnifying the customers but denied it as to the defamation. District Judge Jones said:

> "The court cannot go outside of the Constitution, or hold that to be an inadequate remedy which the Constitution has declared to be the sole remedy. The wrongs and injury, which often occur from lack of preventive means to suppress slander, are parts of the price which the people, by their organic law, have declared it is better to pay, than to encounter the evils which might result if the courts were allowed to take the alleged slanderer or libeler by the throat, in advance."

In *Montgomery Ward & Co.* v. *South Dakota R. M. & H. D. Ass'n.*, 1907, 150 Fed. 413 (Cir. Ct. D. So. Dak.), plaintiff sought an injunction to prevent defendant from publishing in his newspaper any statements which would cause the breaking off of business relations between plaintiff and certain third persons. District Judge Carland, denying the injunction, said (after holding that such an injunction would result in an unconstitutional censorship of the press):

> "This court cannot determine in advance, by any rule which it might promulgate for the guidance of the defendant Mannix, as to what would be a mere libel, and what would come within the prohibition of the injunction."

Taking these last three federal court cases together we respectfully call attention to the fact that they all stigmatize any form of injunctive restraint of defamation as such, as an unlawful censorship of the press.

The case of *Dailey* v. *Superior Court of the City and County of San Francisco*, 1896, 112 Cal. 94, 44 Pac. 438, 53 A. S. R. 160, 32 L. R. A. 273, also holds that there is no power in a court of equity to enjoin speech because such injunction must amount to censorship.

On the basis of the above authorities it appears, then, that it is unconstitutional to enjoin slander or libel because to do so would constitute the court a censor, would deprive the defendant of his constitutional right to have

the question of liability decided by a jury, and would be incompatible with the "responsibility" clauses of the various constitutional guaranties.

Furthermore, any injunction the court might issue would be defective for uncertainty as the court is obviously unable to lay down any rule of conduct by following which the defendant could stay within its terms; the court cannot say in advance what is defamation and what is not, what is privileged and what is not, what is fair comment and what is not.

The law, as we have above stated it, is the established law in *all the states which have passed upon the question*, to-wit, California, Louisiana, Missouri, Nebraska, New Jersey, New York, Ohio, Texas, Alabama (Federal), South Dakota (Federal), from which jurisdictions cases are cited in this and the preceding section. A consideration of the cases cited in the footnotes will show that this law is also undoubtedly (or probably, as the case may be), that of the following states: Florida,[1] Massachusetts,[2] Montana,[3] North Carolina,[4] Pennsylvania,[5] and West Virginia.[6] These are the only states which have passed upon the question; they are unanimous in holding that it is unconstitutional

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[1] *Jones, Varnum & Co. v. Townsend's Ad'trix.*, 1885, 21 Fla. 431, 450, 58 Am. Rep. 676.

[2] *Commonwealth* v. *Blanding*, 1825, 3 Pick. (Mass.) 304, 313, 15 Am. Dec. 214.

[3] *Lindsay* v. *Montana Fed. of Labor*, 1908, 37 Mont. 264, 96 Pac. 127, 127 A. S. R. 722, 18 L. R. A. N. S. 707.

[4] *Cowan* v. *Fairbrother*, 1896, 118 N. C. 406, 24 S. E. 212, 32 L. R. A. 829.

[5] *Respublica* v. *Dennie*, 1805, 4 Yeates (Pa.) 267, 2 Am. Dec. 402.

[6] *Sweeney* v. *Baker*, 1878, 13 W. Va. 158, 182, 31 Am. Rep. 757.

to enjoin mere defamation as such; there are no states, except Minnesota, which take a contrary view.

If an individual may not have an injunction against a defamatory publication concerning himself even though it is false, malicious and unprivileged and even though it be shown that defendant is insolvent and plaintiff will sustain irreparable injury, it must necessarily follow that an injunction will not issue on the suit of a state against publication of defamatory statements concerning persons who are not parties to the suit, especially when the state is not required to show that the publication is false and malicious (except in so far as the publication itself raises presumptions thereof), that the defendant is insolvent, that the state will suffer irreparable injury or that there is any public emergency.

In England, where there is no express constitutional guaranty, statutes have been passed authorizing courts permanently to enjoin libels on particular persons after a verdict of guilty in civil and criminal defamation cases. By statute also the courts may temporarily enjoin specific defamation without jury trial:

1. Where the words are so clearly libelous that the court would direct a verdict for plaintiff;

2. Where the jury could not properly find the words to be fair comment on matters of public interest;

3. Where the jury could not properly find the words to be privileged; and the question of malice, except in the plainest cases, will not be tried out on affidavit;

4. Where the defendant does not intend to plead the truth, or where there is no reasonable prospect that he could succeed in such plea;

5. Where irreparable or very serious injury will result to the plaintiff; and

6. Where plaintiff furnishes not only a bond for costs but also to protect defendant against improvident issuance of the injunction. (Odgers on Libel and Slander, 6th Ed., p. 341; Gatley on Libel and Slander, 1929 Ed., p. 840.)

In the absence of statute, injunctions against defamation could not be granted in England even upon the showing above mentioned. (*Prudential Assurance Co.* v. *Knott*, 1875, 44 L. J. Ch. 192, L. R. 10 Ch. 142, 31 L. T. 866, 23 W. R. 249, overruling *Dixon* v. *Holden*, L. R. 7 Eq. 488, 20 L. T. 357, 17 W. R. 482.)†

It is submitted that in the United States, where it is expressly protected by constitutional guaranties, the press should be not less free than it is in England.

D. IT IS AN ABRIDGMENT OF FREEDOM OF THE PRESS FOR THE STATE TO PUNISH UTTERANCES, NOT AS CRIMINAL LIBELS ON INDIVIDUALS, BUT AS BEING GENERALLY INJURIOUS TO PUBLIC WELFARE UNLESS THEY ADVOCATE VIOLENT OVERTHROW OF THE GOVERNMENT OR BREACH OF LAW.

It must be conceded that The Saturday Press did not advocate violent overthrow of government or breach of law.

In so far as The Saturday Press indulged in criminal defamation of the individuals or entities mentioned therein, the State may protect itself by indictment for criminal libel. But in the instant case it is claimed that the State has interests to protect other than those protected by criminal libel proceedings. It is claimed that this news-

†Roscoe Pound, in his article on "Equitable Relief Against Defamation and Injuries to Personality" in 29 Harv. L. Rev. (April, 1916) 640, does not maintain that the courts in this country should go any further than have the English courts.

paper constituted a public nuisance; that is, a danger to public welfare beyond and different from the danger of criminal libel. But the right of the State to protect itself against defamatory utterances thought to create a danger not met by criminal libel proceedings is limited to such utterances as advocate a violent overthrow of the government or breach of law. Even here, the State must proceed by punishment after publication, not by prior restraints.

If one, in attacking the government or governmental policies, defames public officials, as in the case at bar, the State may prosecute for the criminal defamation of such officials. But unless there is incitement to violent overthrow of the government or to breach of law, the State has no further rights to vindicate,—unless it be held that the Alien and Sedition Laws and the doctrine of libels on government may be resuscitated.

In *State* v. *Gabriel*, 1921, 95 N. J. L. 337, 112 A. 611, defendant was indicted and convicted under a New Jersey statute for being a communist and advocating hostility to the government. Mr. Justice Berger, delivering the opinion of the court, reversing the judgment of conviction, said:

> "Under the Constitution and Bill of Rights the Legislature cannot make it criminal to belong to a party organized or formed for the purpose of encouraging hostility or opposition to the government of the United States or of this State, unless the hostility or opposition includes a purpose to overthrow or subvert such government. The constitutionality of the second section of the act was sustained in *State* v. *Tachin*, 92 N. J. Law 269, 106 Atl. 145, because that section provides that the hostility or opposition prohibited involved subversion and destruction by force, while by the section under consideration it is made a crime to be a member of a society organized or formed for the purpose of encouraging hostility or opposition to the federal or state government, not to subvert or destroy them by force, and would apply to any citizen

who sought a change in the form of the government by a most peaceful means."

In *State* v. *Diamond*, 1921, 27 N. M. 477, 202 Pac. 988, 20 A. L. R. 1527, appellant was convicted under a statute which made it a felony to do any act antagonistic to organized government, or having as its aim the destruction of organized government, or to incite revolution, etc. On appeal the decision was reversed and the defendant discharged. Mr Justice Parker said:

> "And we are not at liberty to supply by intendment the element of force and violence which would render the statute free from the objection raised to it. * * *
>
> If our interpretation of our statute is correct, as no doubt it is, the whole statute is unconstitutional."

Finally, it may be noted, Texas follows the same doctrine. In *Ex parte Meckel*, 1920, 87 Tex. Cr. 120, 220 S. W. 81, the court held unconstitutional a statute known as the "Disloyalty Act" the effect of which was to punish as a felony all disloyal language as such, without regard to the tendency of the language to produce a breach of the peace. This case was followed in *Schellenger* v. *State*, 1920, 87 Tex. Cr. 411, 222 S. W. 246.

The law seems well-established that every citizen has a right to criticize the government and the conduct of those who represent him in that government. He has, moreover, the right to advocate the destruction and subversion of that government provided the means advocated are peaceful. What becomes of that right when he is told that none of his criticisms may be defamatory! (*City of Chicago* v. *The Tribune Co.*, 1923, 307 Ill. 595.) It is not reasonable to suppose that one may reform a government or substitute a better one in its place, by praising the existing government. Reform comes only when the evils and corruption existing in a state have been pointed out and

brought to the attention of the people. No publication can point out corruption in the body politic without being defamatory; all such publications, which serve a great public good, are defamatory of the government and usually, to be effective, must be so of the individuals employed by it. Both the government and the individual are amply protected by the ordinary law of civil and criminal libel and by the syndicalism acts. Any statute which goes further, as does the Statute involved in this case, deprives the citizen of an inalienable right and is, we submit, unconstitutional and void.

E. RESTRICTIONS ON USE OF THE MAILS AND INJUNCTIONS AGAINST BOYCOTTS, AND THE LIKE.

It is well settled that Congress may deny postal service to certain classes of literature and this denial has been held not a violation of the First Amendment. Although Congress is powerless to abridge the freedom of speech or press, it is not bound to assist actively in the distribution of matter which it considers of an immoral or socially injurious character. But none of the cases which uphold the power of Congress to make such prohibitions involve restrictions, properly so-called, on the press. They do not say that the paper cannot, for instance, publish obscene matter; they simply provide certain conditions with which the paper must comply in order to enjoy a certain public service rendered by the government.

All the cases where an injunction has been granted affecting freedom of speech or press, have involved some other element such as conspiracy, intimidation, coercion, boycott, and unfair competition. In no case that we are aware of has an injunction ever been directed solely against defamation as such, but has always issued against unlawful *conduct* of one sort or another. Thus injunctions have is-

sued against threats, and intimidation in labor disputes; against acts in pursuance of an unlawful boycott; against writings in furtherance of an unlawful conspiracy; against slander of title of a patent right and other forms of unfair competition, etc., etc.

But in all these cases the effect on the right of free speech and press has been purely incidental; the real object of the injunction has always been to prevent unlawful acts and conduct, not to prevent words merely because they were defamatory. It is obvious that the Minnesota Statute goes far beyond these cases in not requiring any element of conspiracy, intimidation, coercion, boycott, or unfair competition.

III.

FREEDOM OF THE PRESS IS WITHIN THE GUARANTIES OF THE FOURTEENTH AMENDMENT TO THE FEDERAL CONSTITUTION.

We believe the foregoing establishes that the Minnesota Statute abridges freedom of the press. If, therefore, freedom of the press is protected by the Fourteenth Amendment, the Statute violates that amendment.

It is the purpose of this division of the brief to establish

A. Freedom of the press is a liberty under the Fourteenth Amendment of which appellant has been deprived without due process of law; and

B. Freedom of the press is a privilege and immunity of citizens of the United States under the Fourteenth Amendment and has been abridged in this case.

A. FREEDOM OF THE PRESS IS A LIBERTY UNDER THE FOURTEENTH AMENDMENT OF WHICH APPELLANT HAS BEEN DEPRIVED WITHOUT DUE PROCESS OF LAW.

1. Freedom of the press is a liberty under the Fourteenth Amendment.

Beginning with *Gitlow* v. *New York, infra*, in 1925, and following with *Whitney* v. *California, infra*, and *Fiske* v. *Kansas, infra*, in 1927, this court has thrice enunciated the doctrine that the right of free speech and press is protected as a liberty belonging to all persons under the Fourteenth Amendment. The decision in *Allgeyer* v. *Louisiana*, 1897, 165 U. S. 578, 589, gave such a broad meaning to the word "liberty" that this result was inevitable. Moreover, it had previously been assumed that such is the law: 6 R. C. L. pp. 253-4, 259-61; *Marx & Haas Jeans Clothing Co.* v. *Watson*, 1902, 168 Mo. 133, *supra*.

In *Gitlow* v. *New York*, 1925, 268 U. S. 652, the defendant had been convicted under a New York criminal syndicalism statute which made it a felony to advocate the overthrow of organized government by force. Defendant appealed. Mr. Justice Sanford, delivering the opinion of the court, affirming the conviction, said:

> "For present purposes we may and do assume that freedom of speech and of the press—which are protected by the First Amendment from abridgment by Congress—are among the fundamental personal rights and 'liberties' protected by the due process clause of the Fourteenth Amendment from impairment by the states. We do not regard the incidental statement in *Prudential Ins. Co.* v. *Cheek*, 259 U. S. 530, 543, that the Fourteenth Amendment imposes no restrictions on the states concerning freedom of speech as determinative of this question."

Mr. Justice Holmes, with whom Mr. Justice Brandeis concurred, though agreeing in this interpretation of the Fourteenth Amendment, nevertheless dissented on the ground that defendant's acts did not create any clear and present danger of the substantive evils the state had a right to repress.

The second case recognizing the doctrine that the Fourteenth Amendment protects freedom of speech and press, is that of *Whitney* v. *California*, 1927, 274 U. S. 357. Whitney had been convicted of the felony of assisting in organizing, in the year 1919, the Communist Labor Party of California, of being a member of it, and of assembling with it. These acts were held to constitute a crime, because the group was formed to teach criminal syndicalism. The statute which made these acts a crime restricted the right of free speech and assembly theretofore existing. On appeal it was claimed that the statute, as applied, denied to Whitney the liberty guarantied by the Fourteenth Amendment.

Mr. Justice Sanford, delivering the opinion of the court, affirmed the conviction on the ground that the utterance incited to crime, disturbed the public peace, and endangered the safety of the state. He said:

> "We cannot hold that, as here applied, the act is an unreasonable or arbitrary exercise of the police power of the state, unwarrantably infringing any right of free speech, assembly or association, or that those persons are protected from punishment by the due process clause who abuse such rights by joining and furthering an organization thus menacing the peace and welfare of the state.'"

Numerous commentators, with whom we are in accord, consider that this Court would have declined jurisdiction of that case had not freedom of speech and press been a liberty under the Fourteenth Amendment.

In *Fiske* v. *Kansas*, 1927, 274 U. S. 380, the defendant

had been convicted under a Kansas criminal syndicalism statute which made it a crime to advocate the overthrow of government by violence. Defendant's alleged criminal acts consisted in advocating that others join the organization known as the Industrial Workers of the World. He was convicted and appealed. Mr. Justice Sanford delivering the unanimous opinion of the court, reversing the conviction on the ground that as applied to defendant the statute unconstitutionally deprived him of liberty, said:

"A decision of a state court applying and enforcing a state statute of general scope against a particular transaction as to which there was a distinct and timely insistence that if so applied, the statute was void under the Federal Constitution, necessarily affirms the validity of the statute as so applied, and the judgment is, therefore, reviewable by writ of error under sec. 237 of the Judicial Code * * *. And this court will review the finding of facts by a state court where a Federal right has been denied as the result of a finding shown by the record to be without evidence to support it; or where a conclusion of law as to a Federal right and a finding of fact are so intermingled as to make it necessary, in order to pass upon the Federal question, to analyze the facts. * * * Here the state court held the Syndicalism Act not to be repugnant to the due process clause as applied in a case in which the information in effect charged the defendant with violation of the act in that he had secured members in an organization which taught, advocated and affirmatively suggested the doctrines set forth in the extracts from the preamble to its constitution, and in which there was no evidence that the organization taught, advocated or suggested any other doctrines. No substantial inference can, in our judgment, be drawn from the language of this preamble, that the organization taught, advocated or suggested the duty, necessity, propriety, or expediency of crime, criminal syndicalism, sabotage, or other unlawful acts or methods. * * *

There was nothing which warranted the court or jury in ascribing to this language, either as an inference of law or fact, 'the sinister meaning attributed to it by the state.' * * *

> The result is that the Syndicalism Act has been applied in this case to sustain the conviction of the defendant, without any charge or evidence that the organization in which he secured members advocated any crime, violence or other unlawful acts or methods as a means of effecting industrial or political changes, or revolution. *Thus applied the act is an arbitrary and unreasonable exercise of the police power of the state, unwarrantably infringing the liberty of the defendant in violation of the due process clause of the 14th Amendment.* The judgment is accordingly reversed, and the case is remanded for further proceedings not inconsistent with this opinion." (Italics ours.)

Any doubt which may have existed prior to the Fiske case, has been removed, we submit. Freedom of speech and press is a liberty within the Fourteenth Amendment. If that liberty is arbitrarily taken away by judgment of a court or by act of the legislature, the judgment or the act is unconstitutional.

Attempts of legislatures, both territorial and state, to regulate what language may be taught in the territory or state or employed in commerce, have several times been held invalid as infringing the liberty guarantied by the Fourteenth and Fifth Amendments to the federal Constitution. These cases have a direct bearing on the scope and effect of the word "liberty" as used in the Fourteenth Amendment.

Farrington v. *Tokushige*, 1927, 273 U. S. 284.
Yu Cong Eng v. *Trinidad*, 1926, 271 U. S. 500.
Meyer v. *Nebraska*, 1923, 262 U. S. 390.
Nebraska Dist. etc. v. *McKelvie*, 1923, 262 U. S. 404.
Bartels v. *Iowa*, 1923, 262 U. S. 404.

These cases involve, at one and the same time, freedom of speech and the right to follow the ordinary occupations of life; and they show the extent to which this Court has been willing to go to protect these rights.

2. Appellant has been deprived of this liberty (freedom of the press) without due process of law.

Due process was denied appellant in two main respects (a) the procedure did not conform to the requirement of due process, and (b) the Minnesota Statute is an unreasonable exercise of the police powers of the State.

(a) THE PROCEDURE BY WHICH APPELLANT WAS DEPRIVED OF HIS LIBERTY WAS NOT DUE PROCESS.

In the statement of the case and the analysis of the Minnesota Statute we have called attention to the various unreasonable and unnecessary hardships of the procedure under this Statute. It is not necessary again to repeat them.

(b) THE STATUTE IS AN UNREASONABLE EXERCISE OF THE POLICE POWER OF THE STATE.

The Statute is an unreasonable exercise of the police power in three respects: (1) It deprives appellant of the right to pursue his lawful occupation; (2) The Statute declares defamation to be a nuisance when it is not in fact a nuisance; (3) The Statute goes beyond the evil sought to be remedied. We shall discuss these *seriatim*.

(1) *The Statute deprives appellant of the right to follow his lawful occupation.*

Under the injunction issued in this case the resulting situation is such that the defendant can never again publish *The Saturday Press*, since it has been wholly abated, but must, if he wishes to publish anything, launch a new newspaper and take his chances that it will not founder on the rocks of financial failure. And even if he does this, and publishes defamatory items of the "kind alleged or otherwise," or "as defined by law," he is straightway in contempt of court—without defense. It would be far wiser to

give up journalism and enter some other field; this we contend is what in effect the Statute compels him to do—it really leaves him no choice. Thus he is deprived of the right to follow one of the common occupations of life in contravention of the Fourteenth Amendment.

The right is both a property right and a liberty within the protection of the due process clause of the Fourteenth Amendment. This Court had occasion to declare it a property right quite recently in *Louis K. Liggett Co.* v. *Baldridge, et al.*, 1928, 278 U. S. 105. In that case Pennsylvania had enacted a statute requiring that every drug store be owned only by a licensed pharmacist and that, in the case of corporations and partnerships, every stockholder and member thereof be a licensed pharmacist; there was an exception in favor of corporations and partnerships already owning and conducting stores in the state but no new stores were to be acquired unless all members of the corporation or partnership were licensed pharmacists. Appellant acquired two more stores after the passage of the act although all its stockholders were not licensed pharmacists; it sued to enjoin enforcement of the act, and appealed from a denial of the injunction. Mr. Justice Sutherland, delivering the opinion of the court, reversing the judgment, said:

> "That appellant's business is a property right, *Duplex Co.* v. *Deering*, 254 U. S. 443, 465; *Truax* v. *Corrigan*, 257 U. S. 312, 327, and as such entitled to protection against state legislation in contravention of the federal Constitution, is, of course, clear."

In *Pierce* v. *Society of Sisters, etc.*, 1925, 268 U. S. 510, it was held that an Oregon law requiring all normal children between certain ages to attend public schools, was an arbitrary, unreasonable and unlawful interference with the business enterprise, that of a private school, of appellee society.

In *Burns Baking Co.* v. *Ryan*, 1924, 264 U. S. 504, Mr. Justice Butler, delivering the opinion of the court, said:

> "A state may not, under the guise of protecting the public, arbitrarily interfere with private business, or prohibit lawful occupations, or impose unreasonable and unnecessary restrictions upon them."

See also *Frost* v. *Railroad Commission*, 1926, 271 U. S. 583; *Terrace* v. *Thompson*, 1923, 263 U. S. 197; *Truax* v. *Raich*, 1915, 239 U. S. 33; *Adams* v. *Tanner*, 1917, 244 U. S. 590; *Smith* v. *Texas*, 1914, 233 U. S. 630; *Dent* v. *West Virginia*, 1889, 129 U. S. 114; *United States* v. *Sweeney*, 1899, 95 Fed. 434, 450; *Baker* v. *Daly* (D. C. Ore.), 1926, 15 F. (2d) 881.

This right is not one which can be made to yield to mere convenience; and it is mere convenience which lies behind the Minnesota Statute, that is to say, it is more convenient to suppress a newspaper as a nuisance by means of an injunction, than it is to prosecute the publisher criminally for libel where he will be awarded a jury trial. But this Court has held that this is not enough to justify a statute. Mr. Justice Butler, delivering the opinion of the court in *Weaver* v. *Palmer Bros. Co.*, 1926, 270 U. S. 402, holding that a Pennsylvania statute forbidding the use of shoddy in making comfortables for beds, was unconstitutional, said:

> "The constitutional guaranties may not be made to yield to mere convenience. *Schlesinger* v. *Wisconsin*, decided March 1, 1926. The business here involved is legitimate and useful; and, while it is subject to all reasonable regulation, the absolute prohibition of the use of shoddy in the manufacture of comfortables is purely arbitrary and violates the due process clause of the Fourteenth Amendment."

A legislature cannot arbitrarily declare a mere private nuisance to be a public nuisance and forbid it as such. If the regular publication of defamation can be called a nuisance at all, which we believe it cannot, it can only be a

nuisance to the one defamed, that is, a private nuisance. Thus, in *Pennsylvania Coal Co.* v. *Mahon*, 1922, 260 U. S. 393, the court held that a source of damage to a private dwelling is not a public nuisance, even if similar damage is inflicted on others in different places and that a statute forbidding the mining of coal under private dwellings or streets or cities in places where the right to mine such coal is reserved in the grant is unconstitutional, as taking property without due process of law.

This Court, then, has declared that "the citizen shall be protected in the right to use his powers of mind and body in any lawful calling." But that protection is exactly what the Minnesota Statute denies him. Whether it be called punishment, or some other term, the fact remains that because of certain past acts, appellant is now effectively barred, to perpetuity, from ever again following his chosen vocation of journalism. Journalism is a lawful calling. So much is it a lawful calling that it is the only one specifically mentioned for protection in the Constitution of the United States! Even assuming a flagrant previous abuse in pursuing it, neither the legislature nor the court has the power, under the Fourteenth Amendment, to order the appellant to cease pursuing it in the future.

The law, as laid down in the foregoing cases, has always heretofore been strictly adhered to by the courts of Minnesota until the instant case. *Roraback* v. *Motion Picture Mach. Operators' Union*, 1918, 140 Minn. 481, 168 N. W. 766, 169 N. W. 529, 3 A. L. R. 1290; *Gray* v. *Building Trades Council*, 1903, 91 Minn. 171, 97 N. W. 663, 103 A. S. R. 477, 1 Ann. Cas. 172, 63 L. R. A. 753.

To justify legislation against the pursuit of a lawful occupation *it must be necessary to the welfare of the State.* We contend that the present Minnesota Statute does not meet this requirement. It is not necessary to the welfare

of the State. The State is amply protected by the ordinary law of criminal libel. The regular publication of defamation cannot conceivably cause an emergency such that the State cannot wait to proceed by indictment and trial by jury—unless the government is so corrupt that it will be overthrown by violence at the least revelation of its true nature.

(2) *The Minnesota Statute declares defamation to be a nuisance when in fact it is not a nuisance and cannot be abated as such.*

We concede that equity has general jurisdiction to enjoin and abate nuisances. But it by no means follows that anything may be declared a nuisance, at the pleasure of the legislature, and enjoined without trial by jury. If this were not the case, the legislature could entirely abolish the jury by giving jurisdiction to equity of every crime as a nuisance; it could even call a breach of contract a nuisance. We think no one will contend that the legislature has this unlimited power.

If it does not have this unlimited power, it is because it is confined within certain boundaries. The legislature had no power to make press utterances of any kind a nuisance; they are not a nuisance historically, or by deduction from any known definition, or by analogy to any recognized form of nuisance; they are not a nuisance in fact, and not being so, they cannot be metamorphosed into such by legislative fiat.

It is ordinarily said that in order to justify an injunction against a nuisance or the abatement of a nuisance both injury and damage (public or private) must be present. *Turner* v. *King*, 1912, 117 Md. 403, 83 A. 649; *Rhodes* v. *Dunbar*, 1868, 57 Pa. 274, 98 Am. Dec. 221; *Dorman* v. *Ames*, 12 Minn. 451; 46 C. J. 676. It is also generally said that

the injury and damage must be to the enjoyment of property, public or private. Place and property are ordinarily said to be inseparable from the idea of a nuisance.

Whether the foregoing is true or not, it is certain that the existence of a nuisance is entirely objective and not subjective. That is, the frame of mind of the person alleged to have committed or to be committing the nuisance is immaterial so far as the issue of nuisance is concerned. If A maintains a tannery in a residence district, or a bawdy house, or a speakeasy, with bad motives, and B maintains the same resorts with good motives, both are equally guilty of maintaining a nuisance. The motives or states of mind of the defendants cannot affect the issue involved. Yet this Statute absolves B because of his good motives and penalizes A because of his bad motives; i. e., if B publishes the truth with good motives he has a defense under the Statute, while if A publishes the same thing with bad motives, he has no defense.

Appellant has wrongfully been deprived of his right of trial by jury, not because in suits to abate nuisances he is entitled to a jury, but because there is here no proper nuisance. The legislature has no power, by changing the form of action for defamation, to deprive him of this right.

The Minnesota Statute has made that which is not a nuisance, or in the nature of one, a nuisance by its mere declaration that it is such. But defamation and nuisance are clearly distinguishable. Thus it is said in *Hall et ux. v. Galloway et al.*, 1913, 76 Wash 42, 135 Pac. 478:

> "The trial court * * * in sustaining the demurrer to the complaint in its final form, dropped into a fundamental error which seems to have colored his view of the case throughout. This error consisted in a confusion of the law as to acts illegal in their nature, constituting a private nuisance injurious to the property of the plaintiffs as a community, with the rules

of law relating to words spoken of individuals constituting slander, which is essentially a wrong personal to the individual slandered. While it is true that the two things in their nature partake somewhat of the same character, they are different in that the ultimate ground of recovery in the one case is for an injury to the property right alone, while in the other damages allowed are for an injury to personal character and the injury to the sensibilities resulting from the slanderous words. The one is, of course, an injury to all persons interested in the property affected by the illegal acts. The other is an injury only to the person of whom the slanderous words are spoken."

As the court says above, defamation is an injury only to the person who is its victim. It is not a public injury and cannot be made so by the mere declaration of the legislature. And in order to warrant the abatement of a nuisance there must be a substantial public injury: 46 Corpus Juris (1928), p. 676.

Again, public nuisances always arise out of unlawful acts, and consequently those acts which are lawful can in no legal sense constitute a public nuisance: 20 Ruling Case Law, pp. 384, 385. Passing over the fact of the constitutional guaranties of free speech and press which make these acts lawful, a consideration of the Statute will show that it makes no distinction between lawful and unlawful acts. Defamation which is true, privileged or which constitutes fair comment is not unlawful. The Minnesota Statute fails to distinguish between defamation which is lawful and that which is unlawful: for it makes no allowance for defamation which is privileged or that which constitutes fair comment. Thus the Statute stigmatizes as a public nuisance certain defamation which is perfectly lawful and in which all citizens have a right to indulge.

This Court has declared that a legislature may not impose unusual restrictions on lawful occupations or adopt measures which are unduly oppressive on individuals even

though the procedure it adopts is to declare certain acts or things a nuisance. In *Lawton* v. *Steele*, 1894, 152 U. S. 133, a New York statute was involved, which forbade the use of nets for fishing and provided that any nets so used were a public nuisance subject to abatement and destruction. Defendant, having seized and destroyed plaintiff's nets, the latter sued for damages. There was a judgment for defendant and plaintiff sued out a writ of error. Mr. Justice Brown, delivering the opinion of the court affirming the judgment, said:

> "To justify the state in thus interposing its authority in behalf of the public, it must appear, first, that the interests of the public generally, as distinguished from those of a particular class, require such interference, and, second, that the means are reasonably necessary for the accomplishment of the purpose, and not unduly oppressive upon individuals. The legislature may not, under the guise of protecting the public interests, arbitrarily interfere with private business, or impose unusual and unnecessary restrictions upon lawful occupations. * * * A house may not be torn down because it is put to an illegal use, since it may be as readily used for a lawful purpose, (*Ely* v. *Supervisors*, 36 N. Y. 297,) but where minor articles of personal property are devoted to such use the fact that they may be used for a lawful purpose would not deprive the legislature of the power to destroy them."

This court has also declared that a mere declaration that a thing is a nuisance does not make it so unless it, in fact, had that character. Thus in *Yates* v. *Milwaukee*, 1870, 10 Wall. (77 U. S.) 497, 505, Mr. Justice Miller, delivering the opinion of the court, said:

> "But the mere declaration by the city council of Milwaukee that a certain structure [a wharf] was an encroachment or obstruction did not make it so, nor could such declaration make it a nuisance unless it in fact had that character. It is a doctrine not to be tolerated in this country, that a municipal corporation, without any general laws either of the city or of

the State, within which a given structure can be shown to be a nuisance, can, by its mere declaration that it is one, subject it to removal by any person supposed to be aggrieved, or even by the city itself. This would place every house, every business, and all the property of the city, at the uncontrolled will of the temporary local authorities."

The Minnesota Statute, obviously, is not aimed at acts which cause actual physical discomfort or which are objectively injurious. It is aimed at acts which are not nuisances and which cannot be defined by the legislature as nuisances.

(3) *The Minnesota Statute goes beyond the evil sought to be remedied.*

Not only must every exercise of the police power be reasonable under all circumstances and the means adopted be reasonably necessary and appropriate for the accomplishment of a legitimate object falling within the domain of the police power (6 Ruling Case Law, p. 236), but it must not go beyond the evil which it seeks to cure; it is strictly limited in its extent by the extent of the evil. If it goes further and restricts also that which is legitimate and harmless, it is unconstitutional. This generally recognized principle is amply supported by cases already cited.

The end sought to be attained by the Minnesota Statute is, according to its terms, to prevent people *from engaging in the business of regularly and customarily publishing malicious defamatory and scandalous newspapers.* As we have above pointed out, all newspapers are regularly and customarily defamatory and malice and scandal are presumed. Hence the Statute is designed to prevent defamation.

But defamation has always been deemed sufficiently restrained by well recognized civil and criminal actions. In England, further restraints have been considered neces-

sary,—injunction against the threatened republication of a particular libel. Beyond this, no government should go. Yet the Minnesota Statute forbids appellant to pursue his journalistic calling.

Again, if appellant has built up property (good will) in the name "The Saturday Press," the deprivation of that property right is not essential to the correction of the supposed evil sought to be remedied. The Statute provides, and the injunction orders that "The Saturday Press" be "wholly abated" even though the destruction of the name and good will of the paper is unnecessary to accomplish the purpose of the legislature to prevent regular and customary defamation. Appellant, if he wishes to continue in journalism, must start a new newspaper and even that must be free from defamation (which is a practical impossibility).

In the article on *Nuisances*, in 46 Corpus Juris, page 757, it is said:

> "The right to abate a nuisance is not greater than the necessity of the case, and is limited to the removal of only so much of the objectionable thing as actually causes the nuisance. A person abating a nuisance must not in so doing be guilty of any excess, or inflict any unnecessary injury."

And on page 792:

> "Where the business or use of property alleged to be a nuisance is lawful and can be carried on without causing the injuries complained of, defendant should not be restrained from carrying it on at all; but the injunction should go merely against carrying it on so as to prove injurious or offensive, leaving defendant the right to carry it on in a proper manner."

But that is exactly what the Minnesota Statute fails to do; even if the regular publication of defamation were an evil which the legislature had a right to suppress, which we vigorously deny, the Statute would still be obnoxious

to the Constitution because it does not stop with the abatement of the evil but permits the suppression of the entire newspaper. Because he has previously published defamation, appellant cannot now publish any future editions of his paper whether defamatory or not; it has been declared a public nuisance and "wholly abated."

The question in each case is whether the legislature has adopted the statute in the exercise of a reasonable discretion, or whether its action be a mere excuse for an unjust discrimination, or the oppression, or spoliation of a particular class: *Holden* v. *Hardy*, 1898, 169 U. S. 366, 398; *State* v. *Smith*, 1911, 233 Mo. 242, 135 S. W. 465, 33 L. R. A. (N. S.) 179.

In *Roukovina* v. *Island Farm Creamery Co.*, 1924, 160 Minn. 335, 200 N. W. 350, 38 A. L. R. 1502, Mr. Justice Holt, delivering the opinion of the court, said:

> "A lawful business should not be destroyed or unreasonably hampered, except to the extent found imperatively necessary to a reasonable protection of another's proper enjoyment of life or property. * * * In so far as the judgment forbids the operation of the crusher unmuffled between the hours named, we think it right. * * * The findings also support the judgment in so far as it prohibits the loading of the wagons from the open rear platform next to the alley * * * but we do think the injunction goes too far in forbidding the driving of vehicles along the alley. There is no occasion for excluding defendant from the ordinary use made by the public of the alley."

To the same effect is the case of *Brede* v. *Minnesota Crushed Stone Co.*, 1919, 143 Minn. 374, 173 N. W. 805, 6 A. L. R. 1092.

We contend that the Statute, herein involved, is within the condemnation of these cases; it excludes appellant from the lawful and harmless use of his newspaper which is permitted to the owners of similar newspapers. It goes beyond the supposed evil and is unconstitutional.

B. FREEDOM OF THE PRESS IS A PRIVILEGE AND IMMUNITY OF A CITIZEN OF THE UNITED STATES UNDER THE FOURTEENTH AMENDMENT AND HAS BEEN ABRIDGED IN THIS CASE.

If the Minnesota Statute deprives citizens of the United States of privileges and immunities guarantied them by the Fourteenth Amendment, the Statute is unconstitutional, whether there has been due process or whether there has not been due process. The privilege and immunity cannot be taken away by the State or any department of State government. Having already argued that freedom of the press has been abridged, the sole proposition that need here be argued therefore to demonstrate the unconstitutionality of the Statute, is that freedom of the press is a privilege or immunity of a citizen of the United States.† To this argument we now address ourselves.

The discussion may proceed along two lines:

First: The purpose of the privileges and immunities clause of the Fourteenth Amendment was to assure that each citizen be accorded as against the state government each of the privileges and immunities which are accorded to him as against the federal government. The federal government is forbidden by the First Amendment to

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†The right to follow any of the ordinary callings of life is one of the privileges of a citizen of the United States, and this includes the right to pursue any lawful calling without let or hindrance, except under such reasonable regulations as may be applied to all persons of the same age, sex, and condition. 6 R. C. L. (1915), p. 284. Mr. Justice Bradley in *Butchers' Union, etc., Co.* v. *Crescent City, etc., Co.*, 1884, 111 U. S. 746, said, in his concurring opinion:

> "I hold that the liberty of pursuit, the right to follow any of the ordinary callings of life, is one of the privileges of a citizen of the United States."

abridge freedom of the press. The right to a free press is a privilege and immunity of citizens of the United States, therefore no state may abridge freedom of the press.

In the case of *United States* v. *Hall*, 1871, 26 Fed. Cas. No. 15,282, 3 Chi. Leg. News, 260, 13 Int. Rev. Rec. 181, Mr. Justice Woods, delivering the opinion of the court, and speaking of the Fourteenth Amendment, said:

> "The amendment proceeds: 'No state shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States.' What are the privileges and immunities of citizens of the United States here referred to? They are undoubtedly those which may be denominated fundamental; which belong of right to the citizens of all free states, and which have at all times been enjoyed by the citizens of the several states which compose this Union from the time of their becoming free, independent and sovereign. *Corfield* v. *Coryell* (Case No. 3,230). Among these we are safe in including those which in the constitution are expressly secured to the people, either as against the action of the federal or state governments. Included in these are the right of freedom of speech, and the right peaceably to assemble.
>
> To recur now to the first ground of demurrer, [that the indictment did not charge the violation of any right or privilege granted or secured by the constitution of the United States in alleging a conspiracy by defen-

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To the same effect are: *Ex parte Hutchinson*, 1904, 137 Fed. 949 (C. C. D. Wash.); *Ex parte Hutchinson*, 137 Fed. 950 (C. C. D. Ore.); *Sperry & Hutchinson Co.* v. *Tacoma*, 1911, 190 Fed. 682 (C. C. W. D. Wash.); *In re Grice*, 1897, 79 Fed. 627, 640 (C. C. N. D. Tex.); *The Stockton Laundry Case*, 1886, 26 Fed. 611, 615 (C. C. D. Calif.); *Schnaier* v. *Navarre Hotel & Importation Co.*, 1905, 182 N. Y. 83, 74 N. E. 561, 108 A. S. R. 790, 70 L. R. A. 722; *Gougar* v. *Timberlake*, 1897, 148 Ind. 38, 46 N. E. 339, 62 A. S. R. 487, 37 L. R. A. 644.

We do not devote a separate heading to the abridgment of appellant's right to follow his occupation; for the phrase "freedom of the press" includes the right to follow the occupation of journalism.

dants to prevent certain persons from exercising their right of freedom of speech] are these rights secured to the people by the constitution of the United States? We find that congress is forbidden to impair them by the first amendment, and the states are forbidden to impair them by the fourteenth amendment. Can they not, then, be said to be completely secured? They are expressly recognized, and both congress and the states are forbidden to abridge them. Before the fourteenth amendment, congress could not impair them, but the states might. Since the fourteenth amendment, the bulwarks about these rights have been strengthened, and now the states are positively inhibited from impairing or abridging them, and so far as the provisions of the organic law can secure them they are completely and absolutely secured. * * * We think, therefore, that the right of freedom of speech, and the other rights enumerated in the first eight articles of amendment to the constitution of the United States, are the privileges and immunities of citizens of the United States, that they are secured by the constitution, that congress has the power to protect them by appropriate legislation."

Ever since the Fourteenth Amendment became a part of our Constitution the scope of its application has grown more extensive year by year. Cases have not failed to arise wherein the claim was made that freedom of speech and press is a privilege and immunity of a citizen of the United States, but this Court, in its majority opinions at least, has always decided the cases on other grounds. This Court has never denied the claim—it has simply declined or failed to pass on it.

However, we are not without persuasive arguments from illustrious sources upholding the claim. See dissents of Mr. Justice Harlan in: *Patterson* v. *Colorado*, 1907, 205 U. S. 454; *O'Neil* v. *Vermont*, 1892, 144 U. S. 323; *Twining* v. *New Jersey*, 1908, 211 U. S. 78, 124.

Second: The authorities we have thus far cited hold that freedom of speech and press, broadly as such, is a privilege

and immunity of a citizen of the United States, regardless of the direction in which it is exercised. We submit that this is the better view. But even if such view were not established yet, apparently, the narrower view would not be open to dispute, namely, *that the right to discuss matters of national concern is a privilege of national citizenship.* It would seem clear that the right to discuss anything connected with the federal government or anything of national importance or interest is undeniably an attribute and privilege of national citizenship.

The Minnesota Statute is aimed at all defamation; including defamation of federal officers and of federal candidates for office. The right to discuss federal affairs is a privilege and immunity of citizens of the United States which cannot be abridged by the State of Minnesota. In fact the prohibition against state interference in this respect would probably exist even in the absence of the Fourteenth Amendment. *Gilbert* v. *Minnesota*, 1920, 254 U. S. 325.

Under the Minnesota Statute and the injunction issued in accordance therewith, appellant is forbidden to criticize the federal government or its employees because he is not allowed to criticize anybody. His newspaper has been wholly stifled, and he has been deprived of a federal right.

We believe a state has no power to forbid a person to defame the federal government or its officers for this is an inalienable privilege of national citizenship, and would exist even without the protection of the Fourteenth Amendment. This is also the view of the late Professor Henry Schofield: 9 Pub. Am. Soc. Soc. 67; Schofield, Constitutional Law and Equity, 1921, Vol. II, pp. 510-571.

This Court has, however, decided that one of the other rights guarantied by the First Amendment, namely, the right of peaceable assembly, is protected as against a state

by the Constitution; it has gone even further, it has declared that the right is a natural one and was in existence before the adoption of the Constitution. *United States* v. *Cruikshank*, 1876, 92 U. S. 542, 552. See dissent of Mr. Justice Brandeis in *Gilbert* v. *Minnesota*, 1920, 254 U. S. 325. The right of assembly and the right to a free press are closely knit together; the same reason lies behind their protection, and they are justified on the same grounds. Just as the very idea of a republican form of government implies the right to assemble to consult for the common good, so does it imply the right to the free circulation and exchange of ideas in speech and writing. The right of assembly would be of little value if the people were permitted to come together to discuss their grievances but must be careful to speak only well of everybody, living or dead, at the peril of having to prove the truth of their remarks before any chancellor in the county, and without a jury.

In concluding this branch of the argument, we respectfully submit that freedom of the press is a liberty protected by the due process clause of the Fourteenth Amendment; that it is a privilege and immunity protected by the privilege and immunities clause of the Fourteenth Amendment; and that it is probably a right of such magnitude that it would exist even in the absence of the Fourteenth Amendment.

Conclusion.

The constitutional guaranties were provided for the purpose of protecting the citizen against the encroachment of corrupt governments. In testing the constitutionality of an act, therefore, it is proper to postulate the use to which a temporary corrupt government could apply the act. It is certain that history would repeat itself with respect to

the Minnesota Statute and that corrupt governments would seize upon the act to stifle criticism in order to remain in power. Corrupt governments have always made this attempt. (*City of Chicago* v. *The Tribune Company*, 1923, 307 Ill. 595.)

Furthermore, if the Minnesota Statute is valid as to written defamation, a similar act with respect to oral defamation would also be valid. The right of assembly to petition for redress of grievances could be practically extinguished.

And finally, we respectfully submit that the right of trial by jury is inherent in freedom of speech and of the press. Appellant has been deprived of this inherent right.

Respectfully submitted,

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APPENDIX.

Chapter 285, Session Laws of Minnesota, 1925.

Sec. 1: Any person who, as an individual, or as a member or employee of a firm, or association or organization, or as an officer, director, member or employee of a corporation, shall be engaged in the business of regularly or customarily producing, publishing or circulating, having in possession, selling or giving away. [punctuation *sic*],

(a) an obscene, lewd and lascivious newspaper, magazine, or other periodical, or

(b) a malicious, scandalous and defamatory newspaper, magazine or other periodical,

is guilty of a nuisance, and all persons guilty of such nuisance may be enjoined, as hereinafter provided.

Participation in such business shall constitute a commission of such nuisance and render the participant liable and subject to the proceedings, orders and judgments provided for in this Act. Ownership, in whole or in part, directly or indirectly, of any such periodical, or of any stock or interest in any corporation or organization which owns the same in whole or in part, or which publishes the same, shall constitute such participation.

In actions brought under (b) above, there shall be available the defense that the truth was published with good motives and for justifiable ends and in such actions the plaintiff shall not have the right to report [*sic*] to issues or editions of periodicals taking place more than three months before the commencement of the action.

Sec. 2: Whenever any such nuisance is committed or is kept, maintained, or exists, as above provided for, the County Attorney of any county where any such periodical

is published or circulated—or (in the event of such County Attorney's failure or refusal to proceed upon written request in good faith of a reputable citizen of the State) the Attorney General—or (in the event of such Attorney General's failure or refusal to proceed upon written request in good faith of a reputable citizen of the State), any citizen of such county—may commence and maintain in the District Court of said County, an action in the name of the State of Minnesota, upon the relation of such County Attorney, or Attorney General, or citizen as the case may be, to perpetually enjoin the person or persons committing, conducting or maintaining any such nuisance, from further committing, conducting or maintaining any such nuisance. In any such action the court, or a judge thereof in vacation, may, upon such evidence as the court shall deem sufficient, taken in such form as the court shall require, grant a Writ of Temporary Injunction.

The defendant or defendants shall be served therein as in other actions, and the statutory provisions as to service by publication shall be applicable as in other cases. In the case of unknown persons having or claiming any ownership, right, title or interest in any such periodical, or who may be participants in committing or maintaining such nuisance, such persons may be made parties to the action by designating them in the summons and complaint as "all other persons unknown claiming any ownership, right, title or interest in the periodical affected by this action or participating in the commission or maintenance of any nuisance affected by this action," and service on such person may be made by publishing the summons in the manner prescribed in Section 7737 of the General Statutes for 1913.

The defendant or defendants shall have the right to plead by demurrer or answer, and the plaintiff shall have the right to demur or reply as in other cases.

Sec. 3: The action may be brought to trial and tried as in the case of other actions in such District Court, and shall be governed by the practice and procedure applicable to civil actions for injunctions.

After trial the court may make its order and judgment permanently enjoining any and all defendants found guilty of violating this act from further committing or continuing the acts prohibited hereby, and in and by such judgment, such nuisance may be wholly abated.

The court may, as in other cases of contempt, at any time punish, by fine of not more than $1,000 or by imprisonment in the county jail for not more than twelve months, any person or persons violating any injunction, temporary or permanent, made or issued pursuant to this act; Laws 1925, c. 285; Mason's Minnesota Statutes, 1927, section 10123-1 *et seq.*

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Supreme Court of the United States

OCTOBER TERM, 1930.

No. 91.

J. M. NEAL,

Appellant,

ads.

STATE OF MINNESOTA EX REL. FLOYD B. OLSON, COUNTY ATTORNEY OF HENNEPIN COUNTY, MINNESOTA, *Appellee.*

BRIEF OF APPELLEE.

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No. 91.

J. M. NEAR, *Appellant,*

ads.

STATE OF MINNESOTA EX REL. FLOYD B. OLSON, COUNTY ATTORNEY OF HENNEPIN COUNTY, MINNESOTA, *Appellee.*

BRIEF OF APPELLEE.

STATEMENT OF THE CASE.

This appeal involves the constitutionality of Chapter 285, Session Laws of Minnesota for the year 1925, which provides that any person who shall be engaged in the business of regularly or customarily producing, publishing or circulating, having in possession, selling or giving away a malicious, scandalous and defamatory newspaper, magazine or other periodical, is guilty of a nuisance, and may be enjoined from continuing to publish such malicious, scandalous or defamatory newspaper, magazine or other periodical.

Agreeably to the provisions of this statute, complaint was made by Floyd B. Olson, county attorney of Hennepin county, against appellant charging him with a violation thereof. Appellant demurred, raising by the demurrer solely the constitutionality of the statute (R. 336). The

demurrer was overruled. In conformity with the provisions of statute regulating appeals from an order overruling a demurrer, the District Court certified that the question raised by the demurrer was important and doubtful (R. 338). An appeal was taken to the State Supreme Court, which court affirmed the order of the District Court overruling the demurrer and held the law constitutional as against the objection that it violates Article 1 of Section 3 of the Minnesota Constitution and the Fourteenth Amendment to the Constitution of the United States. The opinion of the State Supreme Court is reported in 174 Minn. 457, and transcribed in the record (R. 340-9).

The case was then remanded to the District Court. Appellant answered, admitting the publication of the scandalous and defamatory matter alleged in the complaint and alleging that the law under which the injunction is sought is unconstitutional and violative of the constitutions of the state and of the United States (R. 349-55).

The trial resulted in findings of fact and conclusions of law directing the issuance of a permanent injunction (R. 360-3). Judgment was entered pursuant thereto (R. 364-5), from which judgment an appeal was taken to the State Supreme Court, where the judgment was affirmed. This opinion is reported in 179 Minn. 40, and transcribed in the record (R. 372-3).

From this judgment an appeal has been taken to this court.

STATEMENT OF FACTS.

The complaint charges a violation of the statute by the publication of nine malicious, scandalous and defamatory articles directed against Charles G. Davis, a special law enforcement officer employed by a civic organization of Minneapolis, George E. Leach, then mayor of Minneapolis; Frank W. Brunskill, then chief of police of Minneapolis; Floyd B. Olson, county attorney of Hennepin county; members of the grand jury of Hennepin county, and members of the Jewish race (R. 4-8). Attached to and made a part of the complaint are exhibits consisting of copies of the newspapers setting forth articles upon which the complaint is based.

The findings of fact made by the trial court set forth the nature of the malicious, defamatory and libelous articles, the names of the persons defamed, and the dates of the publication of the articles (R. 361-3).

Nowhere in the proceedings did appellant raise any issue of fact. His attack has been centered upon the constitutionality of the law under which this proceeding was instituted. Appellant does not in this court attack the form of the judgment, nor does he make any claim that the State Court misconstrued the law or entered a judgment not authorized by the terms of the statute.

The settled case (R. 356-9) shows that plaintiff's evidence consisted of the verified complaint together with the issues of the publication in question. Defendant objected to the introduction of the evidence. The grounds of this objection were solely that the statute under which the proceeding was instituted is unconstitutional. That objection was overruled; both sides then rested. Plaintiff then moved the court for the issuance of a permanent injunction, which motion was

granted. No attempt was made by appellant to prove the truth of the statements or to show that the appellant was not publishing the kind of newspaper prohibited by statute.

The copies of this publication which were made a part of the complaint show that this newspaper carries no items of general news interest. It is devoted almost solely to scandalous and defamatory matter. With the exception of a few squibs claimed to contain humor nothing but malicious, scandalous and defamatory matter appears therein.

The only question involved in this appeal is whether the state statute properly construed violates the due process clause of the Fourteenth Amendment to the Constitution of the United States.

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ARGUMENT.

Appellant's brief may be separated into two parts: The first is devoted to an attack upon the wisdom and expediency of the legislation. The second to an attempt to demonstrate that the law, as he construes it, is unconstitutional.

I.

THE LAW PROPERLY CONSTRUED DOES NOT VIOLATE THE FOURTEENTH AMENDMENT TO THE CONSTITUTION.

The only portion of the Fourteenth Amendment which is involved herein is that portion which reads as follows:

> "Nor shall any state deprive any person of life, liberty or property without due process of law."

Article 1 of the Bill of Rights of the United States Constitution providing

> "Congress shall make no law * * * abridging the freedom of speech or of the press"

is a limitation of the right of congress and not on the rights of the states.

Livingston vs. Moore, 7 Pet. 469.
Eilenbecker vs. Plymouth County, 134 U. S. 31.
The Justices vs. Murray, 9 Wall. 274.
Edwards vs. Elliott, 21 Wall. 532.
United States vs. Cruikshank, 92 U. S. 542.
Walker vs. Sauvinet, 92 U. S. 90.
Fox vs. Ohio, 5 How. 410.
Holmes vs. Jennison, 14 Pet. 540.
Presser vs. Illinois, 116 U. S. 252.

Generally speaking, restrictions on the rights of the states must be found in their respective constitutions. In

the case at bar the State Supreme Court has held that the legislation in question does not offend against Section 3 of Article 1 of the Minnesota Constitution, providing:

> "The liberty of the press shall forever remain inviolate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right."

The construction placed by the State Supreme Court on the State Constitution is binding on this court.

Merchants Bank vs. Pennsylvania, 167 U. S. 462.

The Slaughter House Cases, 16 Wall. 36.

The circumstance that this construction is at variance with the construction placed by the courts of other states on similar provisions of the constitutions of those states furnishes no ground for complaint to this court.

There can be no claim upon the record that the legislation under consideration violates the clause of the Fourteenth Amendment prohibiting a state from making or enforcing any law which shall abridge the privileges or immunities of citizens of the United States as there is no showing in the record that appellant is a citizen of the United States.

Appellant's argument is based upon an entirely erroneous construction of Chapter 285, Laws 1925. He construes it as authorizing the court to prohibit the appellant from conducting a newspaper under the name of the Saturday Press, even though such newspaper may be entirely innocent. The law does not permit of such a construction nor did the Supreme Court of the state so construe it.

(a) *The liberty of the press does not include the free and unrestricted right to publish obscene, scandalous or defamatory matter.*

Conceding arguendo that the liberty protected by the Fourteenth Amendment includes the liberty of speech and of the press, *the term "liberty" does not include the free and unrestricted right to publish all matters. This guaranty is not absolute but subject to lawful restraint.

Gitlow vs. New York, 268 U. S. 652.
Toledo Newspaper vs. U. S., 247 U. S. 402.
Robertson vs. Baldwin, 165 U. S. 275.
Patterson vs. Colorado, 205 U. S. 454.
Fox vs. Washington, 236 U. S. 273.
Schenck vs. United States, 249 U. S. 47.
Frohwerk vs. United States, 249 U. S. 204.
Debs vs. United States, 249 U. S. 211.
Schaefer vs. United States, 251 U. S. 466.
Gilbert vs. Minnesota, 254 U. S. 325.

In *Robertson vs. Baldwin, supra*, it is said (page 281):

"Thus the freedom of speech and of the press (Article 1) does not permit the publication of libelous, blasphemous or indecent articles *or other publication injurious to public morals or private reputation.*" (Italics ours.)

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*Note: A criticism of this pronouncement, as contained in the Gitlow case, is voiced by Hon. Charles Warren in an article entitled "The New 'Liberty' Under the Fourteenth Amendment," 39 Harvard Law Review, page 431. His view is that the inclusion within the definition of liberty, guaranteed by the fourteenth amendment against deprivation by a state without due process of law, that of liberty of speech and of the press is unwarranted, at variance with prior decisions of this court and with the intention of the framers of the constitution and the amendment.

In *Gitlow vs. New York, supra*, on page 666, it is said:

"It is a fundamental principle, long established, that the freedom of speech and of the press which is secured by the constitution, does not confer an absolute right to speak or publish, without responsibility, whatever one may choose, or an unrestricted and unbridled license that gives immunity for every possible use of language and prevents the punishment of those who abuse this freedom. * * * Reasonably limited, it was said by Story in the passage cited, this freedom is an inestimable privilege in a free government; without such limitation, it might become the scourge of the republic.

"That a state in the exercise of its police power may punish those who abuse this freedom by utterances inimical to the public welfare, tending to corrupt public morals, incite to crime or disturb the public peace, is not open to question. *Robertson vs. Baldwin, supra*, p. 281; *Patterson vs. Colorado, supra*, p. 462; *Fox vs. Washington, supra*, p. 277; *Gilbert vs. Minnesota, supra*, p. 339; *People vs. Most*, 171 N. Y. 423, 431; *State vs. Holm*, 139 Minn. 267, 275; *State vs. Hennessy*, 114 Wash. 351; *State vs. Boyd*, 86 N. J. L. 75; *State vs. McKee*, 73 Conn. 18, 27. Thus it was held by this court in the Fox case, that a state may punish publications advocating and encouraging a breach of its criminal laws; and, in the Gilbert case, that a state may punish utterances teaching or advocating that its citizens should not assist the United States in prosecuting or carrying on war with its public enemies."

See also *Whitney vs. California*, 274 U. S. 357, in which the statement in the first paragraph of this quotation is quoted with approval.

In *Schenck vs. United States, supra*, on page 52, it is said:

"The most stringent protection of free speech would not protect a man in falsely shouting 'fire' in a theatre and causing a panic. It does not even protect a man against uttering words that may have all the effect of force. *Gompers vs. Bucks Stove and Range Co.*, 221 U. S. 418, 439."

In *Tyomico Publishing Co. vs. United States* (District Court, Michigan), 211 Fed. 385, the court say, answering an attack made by the plaintiff on the laws forbidding placing of matter advertising a lottery in the mails, which attack was based on a claimed violation of the freedom of the press:

"The constitutional guaranty of a free press cannot be made a shield from violation of criminal laws which are designed to protect society from acts clearly immoral or otherwise injurious to the people. *Ex parte Jackson*, 96 U. S. 727, 736, 24 L. Ed. 877; *In re Rapier*, 143 U. S. 110, 133, 134, 12 Sup. Ct. 374, 36 L. Ed. 93; *Public Clearing House vs. Coyne*, 194 U. S. 497, 506, 24 Sup. Ct. 789, 48 L. Ed. 1092; *Knowles vs. United States*, 170 Fed. 409, 411, 95 C. C. A. 579; *United States vs. Journal Co.* (D. C.), 197 Fed. 415, 418."

(b) *The court has power to restrain by injunction publication of defamatory matter.*

In *Gompers vs. Bucks Stove and Range Co.*, 221 U. S. 418, a court of equity upon proper application issued its order restraining defendant from boycotting complainant by publishing statements that complainant was guilty of unfair trade. Upon a proceeding to review a judgment holding Gompers and others guilty of contempt of court by publishing statements in violation of the injunction, it was held

that the injunction did not amount to an unconstitutional abridgment of free speech or of the press. On page 437, the court say:

"* * * when these facts exist, the strong current of authority is that the publication and use of letters, circulars and printed matter may constitute a means whereby a boycott is unlawfully continued, and their use for such purpose may amount to a violation of the order of injunction."

In *Toledo Newspaper vs. United States, supra*, on page 419, it is said:

"* * * however complete is the right of the press to state public things and discuss them, that right, as every other right enjoyed in human society, is subject to the restraints which separate right from wrongdoing."

(c) *The Minnesota statute merely prohibits engaging in the business of regularly or customarily producing, publishing or circulating a malicious, scandalous and defamatory newspaper.*

It can readily be seen from the language of the statute that no attempt is made to abridge the freedom of the press or prevent one from engaging in a lawful calling. We quote the language of the statute:

"Any person who, as an individual, or as a member or employee of a firm, or association or organization, or as an officer, director, member or employee of a corporation, shall be engaged in the business of regularly or customarily producing, publishing or circulating, having in possession, selling or giving away.

(a) an obscene, lewd and lascivious newspaper, magazine, or other periodical or

(b) a malicious, scandalous and defamatory newspaper, magazine or other periodical,

is guilty of a nuisance, and all persons guilty of such nuisance may be enjoined, as hereinafter provided.

* * * * * * * * * *

"After trial the court may make its order and judgment permanently enjoining any and all defendants found guilty of violating this act from further committing or continuing the acts prohibited hereby, and in and by such judgment, such nuisance may be wholly abated."

We direct the court's attention to the section last quoted. The power of the court is therein limited to restraining the business of regularly publishing, circulating, having in possession, selling or giving away a malicious, scandalous and defamatory newspaper, magazine or other periodical. It is the business of regularly and customarily producing, publishing or circulating such a newspaper which is denominated as a nuisance and which may be abated. The statute is not directed against the incidental publication, distribution or circulation of defamatory matter.

On page 54 of appellant's brief appears the following:

"* * * appellant is now effectively barred, to perpetuity, from ever again following his chosen vocation of journalism. Journalism is a lawful calling. So much is it a lawful calling that it is the only one specifically mentioned for protection in the Constitution of the United States."

And on page 51:

"Under the injunction issued in this case the result-

ing situation is such that the defendant can never again publish The Saturday Press, since it has been wholly abated, but must, if he wishes to publish anything, launch a new newspaper and take his chances that it will not founder on the rocks of financial failure."

And on page 65:

"His newspaper has been wholly stifled * * *"

The statute does not undertake to prohibit appellant from following journalism as a calling or from publishing, circulating or distributing the Saturday Press, provided he does not regularly and customarily publish therein the matter prohibited by statute.

The State Supreme Court in *Olson vs. Guilford*, 174 Minn. 457, so construed it (R. 340-9). On page 461, it is said:

"The business at which the statute is directed involves more than libel. Mere libel under the statute does not constitute the nuisance. The statute is not directed at threatened libel but at an existing business which, generally speaking, involves more than libel. The distribution of scandalous matter is detrimental to public morals and to the general welfare."

And on the second appeal from the judgment, reported in 179 Minn. 40 (R. 372-3), it is said:

"We see no reason however for defendants to construe the judgment as restraining them from operating a newspaper in harmony with the public welfare, to which all must yield."

The statute is open to no other construction. However, if it could be construed as prohibiting appellant from ever engaging in the publication of a newspaper and that construction raises doubt as to its constitutionality this court

would interpret the act in such a way as to eliminate such doubt.

Fox vs. Washington, 236 U. S. 273 (277), where it is said:

> "So far as statutes fairly may be construed in such a way as to avoid doubtful constitutional questions they should be so construed; *United States vs. Delaware and Hudson Co.*, 213 U. S. 366, 407, 408 * * *"

(d) *Appellant cannot complain of the terms of the injunction issued by the trial court.*

The extracts from appellant's brief to which we have heretofore called attention are based upon the terms of the injunction issued by the trial court rather than upon the statute. If the language of the injunction is not justified by the statute appellant cannot take advantage of this under the record as it stands. He made no suggestion to the trial court that the terms of the injunction are not authorized by the law; nor do his assignments of error in the State Court or in this court raise that point. Apparently this contention was made for the first time in the State Supreme Court on the appeal from the judgment. It is discussed by that court in this language:

> "The argument is made that the judgment goes too far and literally prevents the defendants from publishing any kind of a newspaper and thereby deprives them of their means of livelihood and the legitimate use of their property. It is sufficient to say that the assignments of error do not go to the form of the judgment. The lower court has not been asked to modify the judgment. * * * *Defendants have in no way indicated any desire to conduct their business in the usual and legitimate manner*" (R. 373). (Italics ours.)

The portion of this quotation set out in Italics finds support in this court in the case of *Milwaukee Publishing Company vs. Burleson*, 255 U. S. 407. In this case this court is considering the constitutionality of the espionage law (Act of June 15, 1917, Chapter 30, Title 12, Sec. 3, 40 Stat. 217), which denies the mails to newspapers and other publications violating its provisions. The postmaster general of the United States acting under the authority conferred upon him by this statute revoked the second-class mail privilege theretofore enjoyed by the publishing company for the reason that its newspaper had for more than five months almost daily contained articles which under the express terms of the statute rendered it non-mailable. In speaking of the terms of the order the court say:

> "The order simply withdrew from the relator the second-class privilege, but did not exclude its paper from other classes, as it might have done, and there was nothing in it to prevent reinstatement at any time. It was open to the relator to mend its ways, to publish a paper conforming to the law, and then to apply anew for the second-class mailing privilege. This it did not do but, * * * it preferred this futile litigation * * *. Whatever injury the relator suffered was the result of his own choice."

Appellant quotes as authority for his right to raise this question for the first time in this court the case of *Fiske vs. Kansas*, 274 U. S. 380, in which the court uses the following language (385):

> "A decision of a State Court applying and enforcing a state statute of general scope against a particular transaction *as to which there was a distinct and timely insistence that, if so applied, the statute was void under*

the Federal Constitution, necessarily affirms the validity of the statute as so applied, and the judgment is, therefore, reviewable by a writ of error. * * *

"And this court will review the finding of facts by a State Court where a Federal right has been denied as the result of a finding shown by the record to be without evidence to support it; or where a conclusion of law as to a Federal right and a finding of fact are so intermingled as to make it necessary, in order to pass upon the Federal question, to analyze the facts." (Italics ours.)

This language does not justify appellant's position. Here there was no distinct and timely insistence that the statute, as applied by the trial court, is void. Appellant has directed his attack solely upon the constitutionality of the statute, regardless of its application. The findings of fact in this case were upon the undisputed evidence. In the Fiske case this court stated that there was no evidence to support the findings. If appellant considered that the terms of the injunction were not authorized by the statute, his remedy was an application to the court granting it for a modification thereof.

The power of a state legislature to forbid an innocent calling upon the ground that certain evils incident to the calling existed which could not be prevented without at the same time preventing the exercise of the calling in which the evils existed, has been often sustained by this court against attack on the ground that such prohibition resulted in the taking of property without due process.

Murphy vs. California, 225 U. S. 623 (ordinance of South Pasadena, California, prohibiting the operation of a billiard hall within the city limits sustained).

Booth vs. Illinois, 184 U. S. 425 (law prohibiting buying of grain for future delivery sustained).

Otis vs. Parker, 187 U. S. 606 (law prohibiting sales of shares of capital stock to be delivered in the future sustained).

The best statement of the principle of law upon which this legislation has been sustained is found in *Booth vs. Illinois, supra*, on page 429:

> "A calling may not in itself be immoral, and yet the tendency of what is generally or ordinarily or often done in pursuing that calling may be towards that which is admittedly immoral or pernicious. If, looking at all the circumstances that attend, or which may ordinarily attend, the pursuit of a particular calling, the state thinks that certain admitted evils cannot be successfully reached unless that calling be actually prohibited, the courts cannot interfere, unless, looking through mere forms and at the substance of the matter, they can say that the statute enacted professedly to protect the public morals has no real or substantial relation to that object, but is a clear, unmistakable infringement of rights secured by the fundamental law."

This statement was quoted with approval in *Murphy vs. California, supra*, and *Otis vs. Parker, supra*.

In *Mugler vs. Kansas*, 123 U. S. 623, a law of Kansas authorizing the issuance of an injunction against the sale of intoxicating liquors was sustained as against the attack that it violated the due process clause of the Fourteenth Amendment. There the court say (page 665):

> "The principle, that no person shall be deprived of life, liberty, or property, without due process of law, was embodied, in substance, in the constitutions of nearly

all, if not all, of the states at the time of the adoption of the Fourteenth Amendment; and it has never been regarded as incompatible with the principle, equally vital, because essential to the peace and safety of society, that all property in this country is held under the implied obligation that the owner's use of it shall not be injurious to the community."

Answering the claim that proceedings in equity for the abatement of a nuisance are inconsistent with due process, it is said (page 672):

"Equally untenable is the proposition that proceedings in equity for the purposes indicated in the thirteenth section of the statute are inconsistent with due process of law. 'In regard to public nuisances,' Mr. Justice Story says, 'the jurisdiction of courts of equity seems to be of a very ancient date, and has been distinctly traced back to the reign of Queen Elizabeth. The jurisdiction is applicable not only to public nuisances, strictly so called, but also to purprestures upon public rights and property. * * * In case of public nuisances, properly so called, an indictment lies to abate them, and to punish the offenders. But an information, also, lies in equity to redress the grievance by way of injunction.' 2 *Story's Eq.*, §§ 921, 922. The ground of this jurisdiction in cases of purpresture, as well as of public nuisances, is the ability of courts of equity to give a more speedy, effectual, and permanent remedy, than can be had at law. They cannot only prevent nuisances that are threatened, and before irreparable mischief ensues, but arrest or abate those in progress, and, by perpetual injunction, protect the public against them in the future; whereas, courts of law can only

reach existing nuisances, leaving future acts to be the subject of new prosecutions or proceedings. This is a salutary jurisdiction, especially where a nuisance affects the health, morals, or safety of the community."

Mugler vs. Kansas, supra.

There is the further consideration that effect must be given to the provision in the bill of rights declared by the State Constitution that every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character.

§ 8, Article 1, *Minnesota Constitution.*

II.

The Act Is a Legitimate Exercise of the Police Power.

No clearer definition of the term "police power" can be made than that of Mr. Justice Harlan in *Jacobson vs. Massachusetts*, 197 U. S. 11, where on page 26, it is said:

"This court has more than once recognized it as a fundamental principle that 'persons and property are subjected to all kinds of restraints and burdens, in order to secure the general comfort, health, and prosperity of the state; of the perfect right of the legislature to do which no question ever was, or upon acknowledged general principles ever can be made, so far as natural persons are concerned.' *Railroad Co. vs. Husen*, 95 U. S. 465, 471; *Missouri, Kansas & Texas Ry. Co. vs. Haber*, 169 U. S. 613, 628, 629; *Thorpe vs. Rutland & Burlington R. R.*, 27 Vermont 140, 148. In *Crowley vs. Christensen*, 137 U. S. 86, 89, we said: 'The possession and enjoyment of all rights are subject to such reasonable conditions as may be deemed by the governing au-

thority of the country essential to the safety, health, peace, good order and morals of the community. Even liberty itself, the greatest of all rights, is not unrestricted license to act according to one's own will. It is only freedom from restraint under conditions essential to the equal enjoyment of the same right by others. It is then liberty regulated by law'."

While the legislature has not the right to declare that to be a nuisance which in fact is not a nuisance, a great deal must be left to its discretion in that regard, and if the object to be accomplished is conducive to the public interests, it may exercise a large liberty of choice in the means employed.

Lawton vs. Steele, 152 U. S. 133 (140).

The general rule deducible from the decisions of the courts in this country is to the effect that the legislature has general control and supervision over practices which in its judgment are inimical to the public morals and welfare of the state, and the exercise of this authority will be sustained unless it appears that the legislation is arbitrary and capricious.

Phalen vs. Virginia, 8 How. 163.

"Since the limits of the police power of the state have never been defined with precision, and its boundary line cannot be determined by any general formula in advance, recourse had been had to the gradual process of judicial inclusion and exclusion. This gradual process of determining its limitations is due to the fact that it is easier to perceive and realize the existence of the police power. * * * The courts have been unable or unwilling definitely to circumscribe it, but instead have

determined as each case is presented, whether it falls within or without appropriate limits."

6 *Ruling Case Law* 187.

Judge Cooley says that the police power of a state

"embraces its whole system of internal regulation, by which the state seeks not only to preserve the public order and to prevent offenses against the state, but also to establish for the intercourse of citizens with citizens those rules of good manners and good neighborhood which are calculated to prevent a conflict of rights, and to insure to each the uninterrupted enjoyment of his own so far as is reasonably consistent with a like enjoyment of rights by others."

Cooley's Const. Lim., 8th Ed., Vol. 2, p. 1223.

As has been shown, the books abound with cases holding practices to be "nuisances," although such practices may not be intrinsically criminal, because of their tendency to create annoyances—and this even in the absence of statutes declaring such practices nuisances.

In the instant case we are considering whether an act authorizing the abatement of a practice, which manifestly is productive of much harm and of an intrinsically criminal character, comes within the scope of the police power.

In the earlier decisions the power was defined as extending to regulations promulgated by authority of the legislature, having for their object the promotion of the public health, the public morals and the public safety.

The authority is now generally defined as extending far beyond this, and to many matters clearly not so intimately essential to the public welfare.

In commenting upon the limitation of legislative action, the Supreme Court of Washington said:

"Without reviewing the evolution of the law upon this subject, as evidenced by the decisions of courts of last resort, it may be said that, whatever may be the limits by which the earlier decisions circumscribed the power, it has, in the more recent decisions, been defined to include all of those regulations designated to promote the public convenience, the general welfare, the general prosperity, and extends to all great public needs, as well as regulations designed to promote the public health, the public morals or the public safety."

State vs. Pitney, 79 Wash. 608.

This decision sustained the validity of an act prohibiting the use of trading stamps. It was not claimed or even suggested that the use of such stamps involved any element of chance. It is apparent that the court experienced difficulty in pointing out the harm resulting from their use, saying that if a state of facts could exist which would justify the legislature in forbidding the use of trading stamps, it must be presumed to have actually existed. The case contains a comprehensive review of more recent decisions. Commenting further upon the necessity for the existence of facts justifying the legislation in question, the court said:

"In determining whether the provisions of a law bring it within the police power, it is not necessary for the court to find that facts exist which would justify such legislation. If a state of facts can reasonably be presumed to exist which would justify the legislation, the court must presume that it did exist and that the law was passed for that reason. If no state of circumstances could exist to justify the statute, then it may be declared void because in excess of the legislative power."

The exercise of the power for the public welfare is a mat-

ter resting in the discretion of the legislature, and the courts will not interfere therewith except where the regulations adopted are arbitrary, oppressive or unreasonable. Their wisdom or expediency cannot be subjected to judicial review.

> "For our purposes we must assume that, if a state of facts could exist that would justify such legislation, it actually did exist when the statute now under consideration was passed. For us the question is one of power, not of expediency. If no state of circumstances could exist to justify such a statute, then we may declare this one void, because in excess of the legislative power of the state. But if it could we must presume it did. Of the propriety of legislative interference within the scope of legislative power, the legislature is the exclusive judge."
>
> *Munn vs. Illinois*, 94 U. S. 113.

We add a brief reference to state decisions applying the general principles here proclaimed.

People vs. Weiner, 271 Ill. 74.
People vs. Robertson, 302 Ill. 442.
State vs. Morse, 84 Vt. 387.
State vs. Superior Ct., 103 Wash. 409.

Newspapers which are largely given over to scandalous matter have in some states been declared to be criminal publications.

State vs. McKee, 73 Conn. 18.
State vs. Van Wye, 136 Mo. 227.
Re Banks, 56 Kans. 243.
United States vs. Harmon, 45 Fed. 416.
Re Rapier, 143 U. S. 110, 134.

In *State vs. McKee, supra,* the validity of an act prohibiting the sale of papers, books or magazines devoted to the publication of criminal news, police reports, or pictures or stories of deeds of bloodshed, lust and crime, was in all respects held valid. It was objected among other things that the act furnished no fixed boundary which would with uniformity determine when innocence trespasses upon the domain of crime. To this objection the court answered that it would not construe language so as to invalidate an act, when it is fairly susceptible of a construction consistent with validity, but will give effect to a legitimate legislative purpose plainly indicated, if it can reasonably be done, although admitting that the statute may have been framed with looseness and that it may in some particulars be open to a construction inconsistent with its evident purpose.

The case holds that the power of the state in punishing acts as injurious to the public health, safety or morals is not limited to acts within the adjudicated scope of the common law offenses of nuisance and libel.

In *State vs. Van Wye, supra,* an act declaring guilty of a felony anyone who engages in the business of editing, publishing or disseminating a paper devoted mainly to the publication of scandal, immoral conduct, *et cetera,* was declared to be a valid exercise of police power.

In *Re Rapier, supra,* an act prohibiting the mailing of advertisements of lotteries was upheld as within the power of Congress to declare, although, as was stated by the court, the ultimate purpose of the act was simply to disfavor, if not suppress, lotteries. The court held that Congress was empowered to prohibit the dissemination of such advertising through the medium of mails, declaring that the government may decline to become an agent in the circulation of printed matter which it regards as injurious to the people.

In *State vs. Pioneer Press Company*, 100 Minn. 173, a statute forbidding publication of details of the execution of criminals was sustained as a valid police measure. The same objections which are urged here were made to the validity of that statute. This case has been widely quoted and accepted as authority.

It is settled that the state may prohibit publications or teachings which are injurious to society.

State vs. Holm, 139 Minn. 267.

See also *State vs. Gilbert*, 126 Minn. 95, where an act providing for the abatement of nuisances (disorderly houses) was upheld against many of the objections urged here.

III.

The Evil Which the Act Seeks to Suppress Is a Nuisance in Fact.

The legislature has the undoubted right to declare that to be a nuisance which is so in fact, so if the evil described in the statute is a nuisance in fact according to the standards of the courts, this would conclude our inquiry.

Acts of this character are also punished by statute in most, if not all, of the states.

It would seem clear that a publication customarily and regularly devoted to malicious, scandalous and defamatory matter comes within the category of nuisances.

The term nuisance is derived, it appears, from the French word, "nuire," which means to injure, hurt or harm. In a broad sense, a nuisance is anything that works an injury, harm or prejudice to an individual or the public.

20 *Ruling Case Law* 380.

According to the definition of Blackstone, a

> "nuisance, nocumentum, or annoyance, signifies anything that worketh hurt, inconvenience, or damage, and nuisances are of two kinds, public or common nuisances, which affect the public and are an annoyance to all the king's subjects; for which reason we must refer them to the class of public wrongs, or crimes and misdemeanors; and private nuisances; * * * and may be defined, anything done to the hurt or annoyance of the lands, tenements or hereditaments of another."
>
> *Blackstone's Commentaries III*, c. 13, p. 216.

A public nuisance exists wherever acts or conditions are subversive of public order, decency or morals, or constitute an obstruction of public rights. Such nuisances always arise out of unlawful acts.

> 20 *Ruling Case Law* 384, Sec. 7, and cases cited thereunder.

The courts have gone far in extending the law of nuisances to new conditions. Thus, a patrol of strikers in front of a factory was held to be a nuisance when instituted for the purpose of interfering with the business.

> *Vegelahn vs. Gunther*, 167 Mass. 92.

And in another case the displaying of banners and devices, as a means of threats and intimidation, was held to constitute a nuisance.

> *Sherry vs. Perkins*, 147 Mass. 212.

The various acts and conditions that have under different circumstances been declared public nuisances within the meaning of the common law term and general statutory definitions are numerous, and the category of nuisances is being

greatly extended to meet new exigencies and new conditions, even in the absence of express statutes relating thereto.

We call attention to a few of the conditions and situations to which the term has been applied, as illustrative of its general application.

Thus, loud and boisterous outcries, shouting and singing, especially in the night-time, may constitute a public nuisance.

Rhodes vs. Dunbar, 57 Pa. St. 274.

Public profanity, as well as blasphemy, is an indictable offense at common law, when it takes such form and the utterances are under such circumstances as to constitute a public nuisance.

Oehler vs. Levy, 234 Ill. 595.

The circulation of false reports in a community calculated to disturb the public mind and create false terror or anxiety is a public nuisance and was so held in *Commonwealth vs. Cassidy*, 6 Phila. (Pa.) 82.

1 *Wood on Nuisances*, 3rd Ed., p. 92, Sec. 70.

The blowing of whistles, while certainly not a nuisance *per se*, has been declared to be a nuisance when they are harsh, discordant and blown at unseasonable hours and unnecessarily. The fact that they are used in connection with a commercial establishment will not prevent them from being nuisances to persons residing in the vicinity.

20 *Ruling Case Law* 428, and cases cited thereunder.

On the same principle, bells may constitute a nuisance and this is true of church bells as well as those that are rung for commercial purposes.

Davis vs. Sawyer, 133 Mass. 289.

Outcries in a public street calculated to disturb the peace, which are wholly unnecessary, but dictated by malice or a spirit of mischief; or profanity in public, have been held indictable as a nuisance.

State vs. Graham, 3 Speed (Tenn.) 134.
Commonwealth vs. Oaks, 113 Mass. 8.

In *Tanner vs. Trustees*, 5 Hill (N. Y.) 121, the court held that a bowling alley, or any place of amusement kept for hire, that serves no useful end, is a public nuisance. The proceedings in this case were instituted under a bylaw relative to nuisances within the village limits, the passage of which had been authorized under the provisions of the village charter. The court held the bowling alley to be a nuisance as such *per se* without any further proof.

It is quite unnecessary to contend for a doctrine carrying the application of the law to such an extreme conclusion. We cite this and other cases in this class as illustrative of the attitude of the courts in applying the general principles of the law to nuisances of varying character under varying circumstances. In *Wood on Nuisances*, it is pointed out that the case has been repudiated in later decisions, and it is said that it may be stated as a rule that the question whether a bowling alley or any other place of amusement kept for gain or hire is a nuisance, *depends upon the nature of the amusement*, its location and its legitimate results.

Common scolds were common nuisances at common law, as has been seen, and for the first offense were punished by being put in the ducking stool. In the earlier cases they were not entitled to benefit of counsel, but in *Regina vs. Foxby*, 6 Mod. 213, Lord Hale granted that privilege, and suspended sentence to give an opportunity to reform, "for,"

said Lord Hale, "if we duck her now she will go scolding to the end of her life."

See also *Commonwealth vs. Mohn*, 52 Pa. St. 243.

All acts put forth by men which tend directly to create evil consequences to the community at large may be deemed nuisances, where they are of such magnitude as to require the interposition of the courts.

Mohr vs. Gault, 10 Wis. 513.

"Nuisance" is a term for all practices, avocations, erections, establishments, *et cetera*, against which courts will give relief, although they are not intrinsically criminal, because of their tendency to create annoyance, ill health, or inconvenience.

Gifford vs. Hulett, 62 Vt. 342.

And it is held that where usury is proscribed, a house where money is loaned at usurious interest is a disorderly house.

State vs. Diamant, 73 N. J. Law 131.

New Jersey vs. Martin, 77 N. J. Law 652.

The New Jersey court takes the view that inasmuch as the taking of usurious interest is a violation of positive law of the state, persons maintaining a place where such interest rates were taken, and where statutes prohibiting usurious interest were habitually violated, could be indicted for keeping a disorderly house.

The foregoing illustrates occupations and things held to come within the rules that have been established by the courts in declaring nuisances. Many other things, too numerous to set out, and not inherently harmful, have been placed within the category of nuisances when their use

has become inimical to the welfare and good order of the community.

46 *Corpus Juris* 690.

A purported newspaper or publication regularly and customarily devoted to the dissemination of malicious, scandalous and defamatory matter is subversive of public order and, as such, a public nuisance. It is a nuisance which arises out of unlawful acts.

The word "nuisance" is sufficiently comprehensive to include the alleged unlawful business which works harm, injury and prejudice to the individual and is prejudicial to the public welfare. The State Court has so declared.

State vs. Guilford, 174 Minn. 457.

It has been seen that many acts, things and practices infinitely less harmful in character than the evil described in the act in question have been condemned by the courts as public nuisances, such as the ringing of church bells and other practices, which are ordinarily harmless. There can be no doubt that many businesses that in themselves are lawful and useful may become nuisances of both a public and private character.

The fact that a newspaper or other publication is a useful and lawful business in itself does not preclude it from becoming a nuisance.

It may well be that the publication here involved might be restrained by a court of equity in the general exercise of its equity powers and without recourse to any enabling statute. The circumstance that the act sought to be abated is a crime against the laws of the state does not interfere with the application of the power of injunction.

"Certainly it seems to us to be quite as wise to use the processes of the law and the powers of the court to

prevent the evil, as to punish the offense as a crime after it has been committed."

Eilenbecker vs. District Court, 134 U. S. 31.

The courts, of course, will not concern themselves with the expediency or wisdom of legislation declaring a particular practice to be a nuisance which may be restrained by injunction.

Munn vs. Illinois, 94 U. S. 114.

The statute may be unwise but an unwise enactment is not, necessarily, for that reason invalid.

Booth vs. Illinois, 184 U. S. 425 (431).

The statute might very well be held to be a declaration of the power of the court to restrain the commission of an act detrimental to public morals. This is not the single instance of the adoption of a statute expressly conferring upon courts of equity the right to restrain libelous publications. The power to restrain such publications is exercised by the English courts in the provisions of the Judicature Act of 1873, Sec. 25 (8).

Bonnard vs. Perryman (1891), LXV Law Times (N. S.) 506.

18 *Halsbury's Laws of England* 733.

CONCLUSION.

Appellant's entire attack on the constitutionality of the statute is based upon a construction not justified by its language. Interpreted in strict accordance with its language it does not violate any provision of the United States constitution and is well within the police power of the state. The evil sought to be suppressed is rampant and the means adopted are no more than required.

The existence of this statute need cause no apprehension in the minds of publishers of legitimate newspapers. Their activities are in no way affected. It is aimed at the scandal monger and professional defamer. To such a class the liberty of the press affords no sanctuary. The constitution of the United States does not safeguard them in the practice of their nefarious trade.

It is respectfully submitted that the judgment of the State Court should be affirmed.

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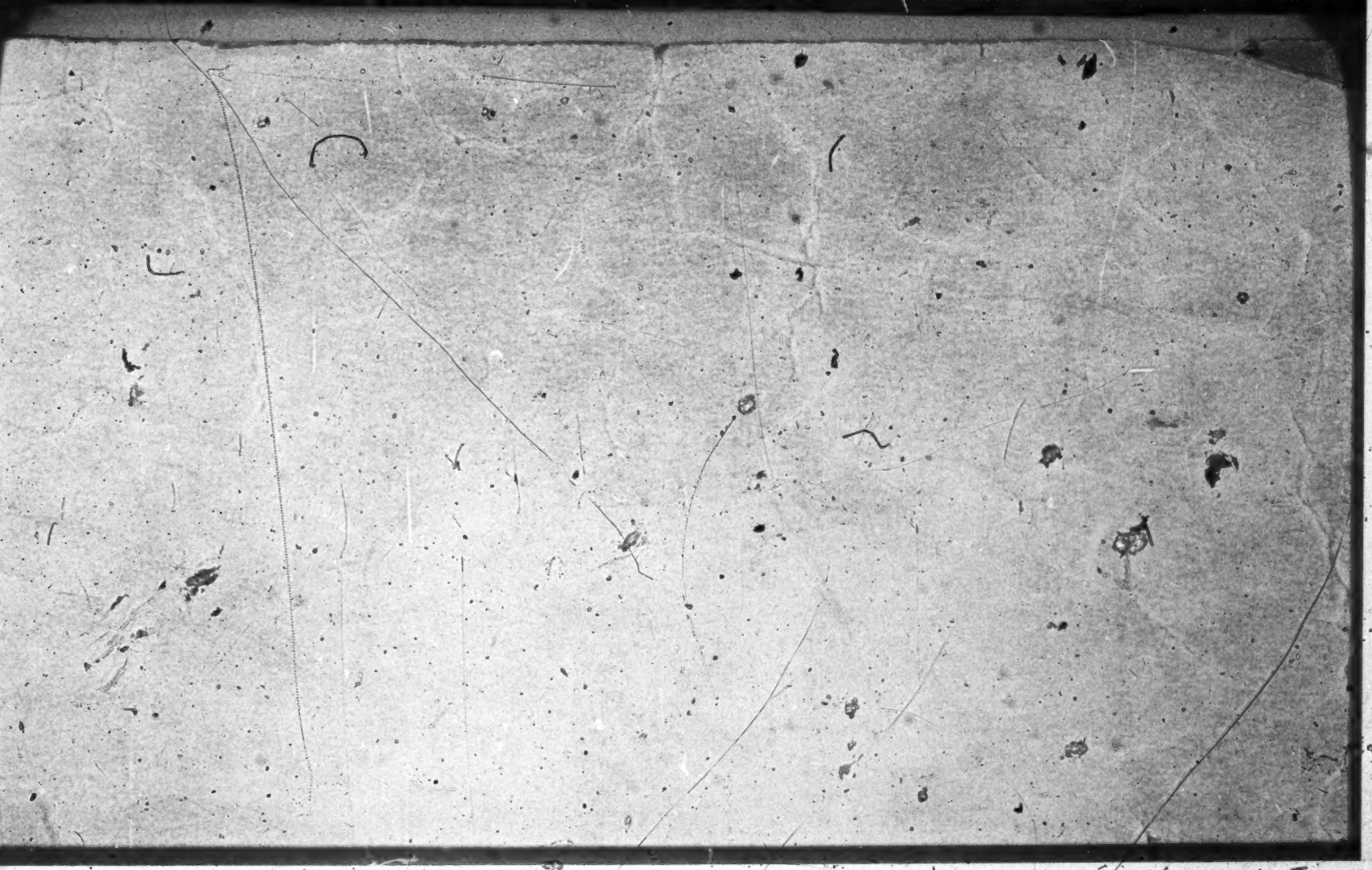

SUPREME COURT OF THE UNITED STATES.

No. 91.—October Term, 1930.

J. M. Near, Appellant, *vs.* The State of Minnesota, *ex rel.* Floyd B. Olson, County Attorney of Hennepin County, Minnesota. } Appeal from the Supreme Court of the State of Minnesota.

[June 1, 1931.]

Mr. Chief Justice Hughes delivered the opinion of the Court.

Chapter 285 of the Session Laws of Minnesota for the year 1925[1] provides for the abatement, as a public nuisance, of a "malicious, scandalous and defamatory newspaper, magazine or other periodical." Section one of the Act is as follows:

"Section 1: Any person who, as an individual, or as a member or employee of a firm, or association or organization, or as an officer, director, member or employee of a corporation, shall be engaged in the business of regularly or customarily producing, publishing or circulating, having in possession, selling or giving away.

(a) an obscene, lewd and lascivious newspaper, magazine, or other periodical, or

(b) a malicious, scandalous and defamatory newspaper, magazine or other periodical,

is guilty of a nuisance, and all persons guilty of such nuisance may be enjoined, as hereinafter provided.

"Participation in such business shall constitute a commission of such nuisance and render the participant liable and subject to the proceedings, orders and judgments provided for in this Act. Ownership, in whole or in part, directly or indirectly, of any such periodical, or of any stock or interest in any corporation or organization which owns the same in whole or in part, or which publishes the same, shall constitute such participation.

"In actions brought under (b) above, there shall be available the defense that the truth was published with good motives and for justifiable ends and in such actions the plaintiff shall not have

[1] Mason's Minnesota Statutes, 1927, 10123-1 to 10123-3.

the right to report (*sic*) to issues or editions of periodicals taking place more than three months before the commencement of the action."

Section two provides that whenever any such nuisance is committed or exists, the County Attorney of any county where any such periodical is published or circulated, or, in case of his failure or refusal to proceed upon written request in good faith of a reputable citizen, the Attorney General, or upon like failure or refusal of the latter, any citizen of the county, may maintain an action in the district court of the county in the name of the State to enjoin perpetually the persons committing or maintaining any such nuisance from further committing or maintaining it. Upon such evidence as the court shall deem sufficient, a temporary injunction may be granted. The defendants have the right to plead by demurrer or answer, and the plaintiff may demur or reply as in other cases.

The action, by section three, is to be "governed by the practice and procedure applicable to civil actions for injunctions", and after trial the court may enter judgment permanently enjoining the defendants found guilty of violating the act from continuing the violation and, "in and by such judgment, such nuisance may be wholly abated". The court is empowered, as in other cases of contempt, to punish disobedience to a temporary or permanent injunction by fine of not more than $1,000 or by imprisonment in the county jail for not more than twelve months.

Under this statute, (section one, clause (b)), the County Attorney of Hennepin County brought this action to enjoin the publication of what was described as a "malicious, scandalous and defamatory newspaper, magazine and periodical", known as "The Saturday Press", published by the defendants in the city of Minneapolis. The complaint alleged that the defendants, on September 24, 1927, and on eight subsequent dates in October and November, 1927, published and circulated editions of that periodical which were "largely devoted to malicious, scandalous and defamatory articles" concerning Charles G. Davis, Frank W. Brunskill, the Minneapolis Tribune, the Minneapolis Journal, Melvin C. Passolt, George E. Leach, the Jewish Race, the members of the Grand Jury of Hennepin County impaneled in November, 1927, and then holding office, and other persons, as more fully appeared in exhibits

annexed to the complaint, consisting of copies of the articles described and constituting 327 pages of the record. While the complaint did not so allege, it appears from the briefs of both parties that Charles G. Davis was a special law enforcement officer employed by a civic organization, that George E. Leach was Mayor of Minneapolis, that Frank W. Brunskill was its Chief of Police, and that Floyd B. Olson (the relator in this action) was County Attorney.

Without attempting to summarize the contents of the voluminous exhibits attached to the complaint, we deem it sufficient to say that the articles charged in substance that a Jewish gangster was in control of gambling, bootlegging and racketeering in Minneapolis, and that law enforcing officers and agencies were not energetically performing their duties. Most of the charges were directed against the Chief of Police; he was charged with gross neglect of duty, illicit relations with gangsters, and with participation in graft. The County Attorney was charged with knowing the existing conditions and with failure to take adequate measures to remedy them. The Mayor was accused of inefficiency and dereliction. One member of the grand jury was stated to be in sympathy with the gangsters. A special grand jury and a special prosecutor were demanded to deal with the situation in general, and, in particular, to investigate an attempt to assassinate one Guilford, one of the original defendants, who, it appears from the articles, was shot by gangsters after the first issue of the periodical had been published. There is no question but that the articles made serious accusations against the public officers named and others in connection with the prevalence of crimes and the failure to expose and punish them.

At the beginning of the action on November 22, 1927, and upon the verified complaint, an order was made directing the defendants to show cause why a temporary injunction should not issue and meanwhile forbidding the defendants to publish, circulate or have in their possession any editions of the periodical from September 24, 1927, to November 19, 1927, inclusive, and from publishing, circulating, or having in their possession, "any future editions of said The Saturday Press" and "any publication, known by any other name whatsoever containing malicious, scandalous and de-

famatory matter of the kind alleged in plaintiff's complaint herein or otherwise."

The defendants demurred to the complaint upon the ground that it did not state facts sufficient to constitute a cause of action, and on this demurrer challenged the constitutionality of the statute. The District Court overruled the demurrer and certified the question of constitutionality to the Supreme Court of the State. The Supreme Court sustained the statute (174 Minn. 457), and it is conceded by the appellee that the act was thus held to be valid over the objection that it violated not only the state constitution but also the Fourteenth Amendment of the Constitution of the United States.

Thereupon, the defendant Near, the present appellant, answered the complaint. He averred that he was the sole owner and proprietor of the publication in question. He admitted the publication of the articles in the issues described in the complaint but denied that they were malicious, scandalous or defamatory as alleged. He expressly invoked the protection of the due process clause of the Fourteenth Amendment. The case then came on for trial. The plaintiff offered in evidence the verified complaint, together with the issues of the publication in question, which were attached to the complaint as exhibits. The defendant objected to the introduction of the evidence, invoking the constitutional provisions to which his answer referred. The objection was overruled, no further evidence was presented, and the plaintiff rested. The defendant then rested, without offering evidence. The plaintiff moved that the court direct the issue of a permanent injunction, and this was done.

The District Court made findings of fact, which followed the allegations of the complaint and found in general terms that the editions in question were "chiefly devoted to malicious, scandalous and defamatory articles," concerning the individuals named. The court further found that the defendants through these publications "did engage in the business of regularly and customarily producing, publishing and circulating a malicious, scandalous and defamatory newspaper", and that "the said publication" "under said name of The Saturday Press, or any other name, constitutes a public nuisance under the laws of the State." Judgment was thereupon entered adjudging that "the newspaper, magazine and periodical known as The Saturday Press", as a public nuisance,

"be and is hereby abated." The judgment perpetually enjoined the defendants "from producing, editing, publishing, circulating, having in their possession, selling or giving away any publication whatsoever which is a malicious, scandalous or defamatory newspaper, as defined by law", and also "from further conducting said nuisance under the name and title of said The Saturday Press or any other name or title."

The defendant Near appealed from this judgment to the Supreme Court of the State, again asserting his right under the Federal Constitution, and the judgment was affirmed upon the authority of the former decision. 179 Minn. 40. With respect to the contention that the judgment went too far, and prevented the defendants from publishing any kind of a newspaper, the court observed that the assignments of error did not go to the form of the judgment and that the lower court had not been asked to modify it. The court added that it saw no reason "for defendants to construe the judgment as restraining them from operating a newspaper in harmony with the public welfare, to which all must yield", that the allegations of the complaint had been found to be true, and though this was an equitable action defendants had not indicated a desire "to conduct their business in the usual and legitimate manner."

From the judgment as thus affirmed, the defendant Near appeals to this Court.

This statute, for the suppression as a public nuisance of a newspaper or periodical, is unusual, if not unique, and raises questions of grave importance transcending the local interests involved in the particular action. It is no longer open to doubt that the liberty of the press, and of speech, is within the liberty safeguarded by the due process clause of the Fourteenth Amendment from invasion by state action. It was found impossible to conclude that this essential personal liberty of the citizen was left unprotected by the general guaranty of fundamental rights of person and property. *Gitlow* v. *New York*, 268 U. S. 652, 666; *Whitney* v. *California*, 274 U. S. 357, 362, 373; *Fiske* v. *Kansas*, 274 U. S. 380, 382; *Stromberg* v. *California*, decided May —, 1931. In maintaining this guaranty, the authority of the State to enact laws to promote the health, safety, morals and general welfare of its people is necessarily admitted. The limits of

this sovereign power must always be determined with appropriate regard to the particular subject of its exercise. Thus, while recognizing the broad discretion of the legislature in fixing rates to be charged by those undertaking a public service, this Court has decided that the owner cannot constitutionally be deprived of his right to a fair return, because that is deemed to be of the essence of ownership. *Railroad Commission Cases*, 116 U. S. 307, 331; *Northern Pacific Railway Company* v. *North Dakota*, 236 U. S. 585, 596. So, while liberty of contract is not an absolute right, and the wide field of activity in the making of contracts is subject to legislative supervision (*Frisbie* v. *United States*, 157 U. S. 161, 165), this Court has held that the power of the State stops short of interference with what are deemed to be certain indispensable requirements of the liberty assured, notably with respect to the fixing of prices and wages. *Tyson* v. *Banton*, 273 U. S. 418; *Ribnik* v. *McBride*, 277 U. S. 350; *Adkins* v. *Children's Hospital*, 261 U. S. 525, 560, 561. Liberty of speech, and of the press, is also not an absolute right, and the State may punish its abuse. *Whitney* v. *California, supra*; *Stromberg* v. *California, supra*. Liberty, in each of its phases, has its history and connotation and, in the present instance, the inquiry is as to the historic conception of the liberty of the press and whether the statute under review violates the essential attributes of that liberty.

The appellee insists that the questions of the application of the statute to appellant's periodical, and of the construction of the judgment of the trial court, are not presented for review; that appellant's sole attack was upon the constitutionality of the statute, however it might be applied. The appellee contends that no question either of motive in the publication, or whether the decree goes beyond the direction of the statute, is before us. The appellant replies that, in his view, the plain terms of the statute were not departed from in this case and that, even if they were, the statute is nevertheless unconstitutional under any reasonable construction of its terms. The appellant states that he has not argued that the temporary and permanent injunctions were broader than were warranted by the statute; he insists that what was done was properly done if the statute is valid, and that the action taken under the statute is a fair indication of its scope.

With respect to these contentions it is enough to say that in passing upon constitutional questions the court has regard to substance and not to mere matters of form, and that, in accordance with familiar principles, the statute must be tested by its operation and effect. *Henderson* v. *Mayor*, 92 U. S. 259, 268; *Bailey* v. *Alabama*, 219 U. S. 219, 244; *United States* v. *Reynolds*, 235 U. S. 133, 148, 149; *St. Louis Southwestern Railway Company* v. *Arkansas*, 235 U. S. 350, 362; *Mountain Timber Company* v. *Washington*, 243 U. S. 219, 237. That operation and effect we think is clearly shown by the record in this case. We are not concerned with mere errors of the trial court, if there be such, in going beyond the direction of the statute as construed by the Supreme Court of the State. It is thus important to note precisely the purpose and effect of the statute as the state court has construed it.

First. The statute is not aimed at the redress of individual or private wrongs. Remedies for libel remain available and unaffected. The statute, said the state court, "is not directed at threatened libel but at an existing business which, generally speaking, involves more than libel." It is aimed at the distribution of scandalous matter as "detrimental to public morals and to the general welfare", tending "to disturb the peace of the community" and "to provoke assaults and the commission of crime." In order to obtain an injunction to suppress the future publication of the newspaper or periodical, it is not necessary to prove the falsity of the charges that have been made in the publication condemned. In the present action there was no allegation that the matter published was not true. It is alleged; and the statute requires the allegation, that the publication was "malicious". But, as in prosecutions for libel, there is no requirement of proof by the State of malice in fact as distinguished from malice inferred from the mere publication of the defamatory matter.[2] The judgment in this case proceeded upon the mere proof of publication. The statute permits the defense, not of the truth alone, but only that the truth was published with good motives and for justifiable ends. It is apparent that under the statute the publication is to be regarded as defamatory if it injures reputation, and that it is scandalous if it circulates charges of reprehensible conduct, whether criminal or

[2] Mason's Minn. Stats. 10112, 10113; State v. Shipman, 83 Minn. 441, 445; State v. Minor, 163 Minn. 109, 110.

otherwise, and the publication is thus deemed to invite public reprobation and to constitute a public scandal. The court sharply defined the purpose of the statute, bringing out the precise point, in these words: "There is no constitutional right to publish a fact merely because it is true. It is a matter of common knowledge that prosecutions under the criminal libel statutes do not result in efficient repression or suppression of the evils of scandal. Men who are the victims of such assaults seldom resort to the courts. This is especially true if their sins are exposed and the only question relates to whether it was done with good motives and for justifiable ends. This law is not for the protection of the person attacked nor to punish the wrongdoer. It is for the protection of the public welfare."

Second. The statute is directed not simply at the circulation of scandalous and defamatory statements with regard to private citizens, but at the continued publication by newspapers and periodicals of charges against public officers of corruption, malfeasance in office, or serious neglect of duty. Such charges by their very nature create a public scandal. They are scandalous and defamatory within the meaning of the statute, which has its normal operation in relation to publications dealing prominently and chiefly with the alleged derelictions of public officers.[3]

Third. The object of the statute is not punishment, in the ordinary sense, but suppression of the offending newspaper or periodical. The reason for the enactment, as the state court has said, is that prosecutions to enforce penal statutes for libel do not result in "efficient repression or suppression of the evils of scandal." Describing the business of publication as a public nuisance, does not obscure the substance of the proceeding which the statute authorizes. It is the continued publication of scandalous and defamatory matter that constitutes the business and the declared nuisance. In the case of public officers, it is the reiteration of

[3] It may also be observed that in a prosecution for libel the applicable Minnesota statute (Mason's Minn. Stats., 1927, secs. 10112, 10113), provides that the publication is justified "whenever the matter charged as libelous is true and was published with good motives and for justifiable ends", and also "is excused when honestly made, in belief of its truth, and upon reasonable grounds for such belief, and consists of fair comments upon the conduct of a person in respect to public affairs." The clause last mentioned is not found in the statute in question.

charges of official misconduct, and the fact that the newspaper or periodical is principally devoted to that purpose, that exposes it to suppression. In the present instance, the proof was that nine editions of the newspaper or periodical in question were published on successive dates, and that they were chiefly devoted to charges against public officers and in relation to the prevalence and protection of crime. In such a case, these officers are not left to their ordinary remedy in a suit for libel, or the authorities to a prosecution for criminal libel. Under this statute, a publisher of a newspaper or periodical, undertaking to conduct a campaign to expose and to censure official derelictions, and devoting his publication principally to that purpose, must face not simply the possibility of a verdict against him in a suit or prosecution for libel, but a determination that his newspaper or periodical is a public nuisance to be abated, and that this abatement and suppression will follow unless he is prepared with legal evidence to prove the truth of the charges and also to satisfy the court that, in addition to being true, the matter was published with good motives and for justifiable ends.

This suppression is accomplished by enjoining publication and that restraint is the object and effect of the statute.

Fourth. The statute not only operates to suppress the offending newspaper or periodical but to put the publisher under an effective censorship. When a newspaper or periodical is found to be "malicious, scandalous and defamatory", and is suppressed as such, resumption of publication is punishable as a contempt of court by fine or imprisonment. Thus, where a newspaper or periodical has been suppressed because of the circulation of charges against public officers of official misconduct, it would seem to be clear that the renewal of the publication of such charges would constitute a contempt and that the judgment would lay a permanent restraint upon the publisher, to escape which he must satisfy the court as to the character of a new publication. Whether he would be permitted again to publish matter deemed to be derogatory to the same or other public officers would depend upon the court's ruling. In the present instance the judgment restrained the defendants from "publishing, circulating, having in their possession, selling or giving away any publication whatsoever which is a malicious, scandalous or defamatory newspaper, as defined by law". The law gives no definition except that covered by the words "scandalous and defamatory", and publications charging official

misconduct are of that class. While the court, answering the objection that the judgment was too broad, saw no reason for construing it as restraining the defendants "from operating a newspaper in harmony with the public welfare to which all must yield", and said that the defendants had not indicated "any desire to conduct their business in the usual and legitimate manner", the manifest inference is that, at least with respect to a new publication directed against official misconduct, the defendant would be held, under penalty of punishment for contempt as provided in the statute, to a manner of publication which the court considered to be "usual and legitimate" and consistent with the public welfare.

If we cut through mere details of procedure, the operation and effect of the statute in substance is that public authorities may bring the owner or publisher of a newspaper or periodical before a judge upon a charge of conducting a business of publishing scandalous and defamatory matter—in particular that the matter consists of charges against public officers of official dereliction—and unless the owner or publisher is able and disposed to bring competent evidence to satisfy the judge that the charges are true and are published with good motives and for justifiable ends, his newspaper or periodical is suppressed and further publication is made punishable as a contempt. This is of the essence of censorship.

The question is whether a statute authorizing such proceedings in restraint of publication is consistent with the conception of the liberty of the press as historically conceived and guaranteed. In determining the extent of the constitutional protection, it has been generally, if not universally, considered that it is the chief purpose of the guaranty to prevent previous restraints upon publication. The struggle in England, directed against the legislative power of the licenser, resulted in renunciation of the censorship of the press.[4] The liberty deemed to be established was thus described by Blackstone: "The liberty of the press is indeed essential to the nature of a free state; but this consists in laying no *previous* restraints upon publications, and not in freedom from censure for criminal matter when published. Every freeman has an undoubted right to lay what sentiments he pleases before the public; to forbid this, is to destroy the freedom of the press; but if he publishes what is

[4] May, Constitutional History of England, vol. 2, chap. IX, p. 4; DeLolme, Commentaries on the Constitution of England, chap. IX, pp. 318, 319.

improper, mischievous or illegal, he must take the consequence of his own temerity." 4 Bl. Com. 151, 152; see Story on the Constitution, secs. 1884, 1889. The distinction was early pointed out between the extent of the freedom with respect to censorship under our constitutional system and that enjoyed in England. Here, as Madison said, "the great and essential rights of the people are secured against legislative as well as against executive ambition. They are secured, not by laws paramount to prerogative, but by constitutions paramount to laws. This security of the freedom of the press requires that it should be exempt not only from previous restraint by the Executive, as in Great Britain, but from legislative restraint also." Report on the Virginia Resolutions, Madison's Works, vol. IV, p. 543. This Court said, in *Patterson* v. *Colorado*, 205 U. S. 454, 462: "In the first place, the main purpose of such constitutional provisions is 'to prevent all such *previous restraints* upon publications as had been practiced by other governments,' and they do not prevent the subsequent punishment of such as may be deemed contrary to the public welfare. *Commonwealth* v. *Blanding*, 3 Pick. 304, 313, 314; *Respublica* v. *Oswald*, 1 Dallas, 319, 325. The preliminary freedom extends as well to the false as to the true; the subsequent punishment may extend as well to the true as to the false. This was the law of criminal libel apart from statute in most cases, if not in all. *Commonwealth* v. *Blanding*, *ubi sup.*; 4 Bl. Com. 150."

The criticism upon Blackstone's statement has not been because immunity from previous restraint upon publication has not been regarded as deserving of special emphasis, but chiefly because that immunity cannot be deemed to exhaust the conception of the liberty guaranteed by state and federal constitutions. The point of criticism has been "that the mere exemption from previous restraints cannot be all that is secured by the constitutional provisions"; and that "the liberty of the press might be rendered a mockery and a delusion, and the phrase itself a by-word, if, while every man was at liberty to publish what he pleased, the public authorities might nevertheless punish him for harmless publications". 2 Cooley, Const. Lim., 8th ed., pp. 885. But it is recognized that punishment for the abuse of the liberty accorded to the press is essential to the protection of the public, and that the common law rules that subject the libeler to responsibility for the public of-

fense, as well as for the private injury, are not abolished by the protection extended in our constitutions. *id.* pp. 883, 884. The law of criminal libel rests upon that secure foundation. There is also the conceded authority of courts to punish for contempt when publications directly tend to prevent the proper discharge of judicial functions. *Patterson* v. *Colorado, supra; Toledo Newspaper Company* v. *United States,* 247 U. S. 402, 419.[5] In the present case, we have no occasion to inquire as to the permissible scope of subsequent punishment. For whatever wrong the appellant has committed or may commit, by his publications, the State appropriately affords both public and private redress by its libel laws. As has been noted, the statute in question does not deal with punishments; it provides for no punishment, except in case of contempt for violation of the court's order, but for suppression and injunction, that is, for restraint upon publication.

The objection has also been made that the principle as to immunity from previous restraint is stated too broadly, if every such restraint is deemed to be prohibited. That is undoubtedly true; the protection even as to previous restraint is not absolutely unlimited. But the limitation has been recognized only in exceptional cases. "When a nation is at war many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight and that no Court could regard them as protected by any constitutional right." *Schenck* v. *United States,* 249 U. S. 47, 52. No one would question but that a government might prevent actual obstruction to its recruiting service or the publication of the sailing dates of transports or the number and location of troops.[6] On similar grounds, the primary requirements of decency may be enforced against obscene publications. The security of the community life may be protected against incitements to acts of violence and the overthrow by force of orderly government. The constitutional guaranty of free speech does not "protect a man from an injunction against uttering words that may have all the effect of force. *Gompers* v. *Buck Stove & Range Co.,* 221 U. S. 418, 439." *Schenck* v. *United States, supra.*

[5] See Huggonson's Case, 2 Atk. 469; Respublica v. Oswald, 1 Dallas, 343; Cooper v. People, 13 Col. 337, 373; Nebraska v. Rosewater, 60 Neb. 438; State v. Tugwell, 10 Wash. 238; People v. Wilson, 64 Ill. 195; Storey v. People, 79 Ill. 45; State v. Circuit Court, 97 Wis. 1.

[6] Chafee, Freedom of Speech, p. 10.

These limitations are not applicable here. Nor are we now concerned with questions as to the extent of authority to prevent publications in order to protect private rights according to the principles governing the exercise of the jurisdiction of courts of equity.[7]

The exceptional nature of its limitations places in a strong light the general conception that liberty of the press, historically considered and taken up by the Federal Constitution, has meant, principally although not exclusively, immunity from previous restraints or censorship. The conception of the liberty of the press in this country had broadened with the exigencies of the colonial period and with the efforts to secure freedom from oppressive administration.[8] That liberty was especially cherished for the immunity it afforded from previous restraint of the publication of censure of public officers and charges of official misconduct. As was said by Chief Justice Parker, in *Commonwealth* v. *Blanding*, 3 Pick. 304, 313, with respect to the constitution of Massachusetts: "Besides, it is well understood, and received as a commentary on this provision for the liberty of the press, that it was intended to prevent all such *previous restraints* upon publications as had been practiced by other governments, and in early times here, to stifle the efforts of patriots towards enlightening their fellow subjects upon their rights and the duties of rulers. The liberty of the press was to be unrestrained, but he who used it was to be responsible in case of its abuse." In the letter sent by the Continental Congress (October 26, 1774) to the Inhabitants of Quebec, referring to the "five great rights" it was said:[9] "The last right we shall mention, regards the freedom of the press. The importance of this consists, besides the advancement of truth, science, morality, and arts in general, in its diffusion of liberal sentiments on the administration of Government, its ready communication of thoughts between subjects, and its consequential promotion of union among them, whereby oppressive officers are shamed or intimidated, into more honourable and just modes of conducting affairs." Madison, who

[7] See 29 Harvard Law Review, 640.

[8] See Duniway "The Development of Freedom of the Press in Massachusetts," p. 123; Bancroft's History of the United States, vol. 2, 261.

[9] Journal of the Continental Congress, 1904 ed., vol. I, pp. 104, 108.

was the leading spirit in the preparation of the First Amendment of the Federal Constitution, thus described the practice and sentiment which led to the guaranties of liberty of the press in state constitutions:[10]

"'In every State, probably, in the Union, the press has exerted a freedom in canvassing the merits and measures of public men of every description which has not been confined to the strict limits of the common law. On this footing the freedom of the press has stood; on this footing it yet stands. . . . Some degree of abuse is inseparable from the proper use of everything, and in no instance is this more true than in that of the press. It has accordingly been decided by the practice of the States, that it is better to leave a few of its noxious branches to their luxuriant growth, than, by pruning them away, to injure the vigour of those yielding the proper fruits. And can the wisdom of this policy be doubted by any who reflect that to the press alone, chequered as it is with abuses, the world is indebted for all the triumphs which have been gained by reason and humanity over error and oppression; who reflect that to the same beneficent source the United States owe much of the lights which conducted them to the ranks of a free and independent nation, and which have improved their political system into a shape so auspicious to their happiness? Had 'Sedition Acts', forbidding every publication that might bring the constituted agents into contempt or disrepute, or that might excite the hatred of the people against the authors of unjust or pernicious measures, been uniformly enforced against the press, might not the United States have been languishing at this day under the infirmities of a sickly Confederation? Might they not, possibly, be miserable colonies, groaning under a foreign yoke?"

The fact that for approximately one hundred and fifty years there has been almost an entire absence of attempts to impose previous restraints upon publications relating to the malfeasance of public officers is significant of the deep-seated conviction that such restraints would violate constitutional right. Public officers, whose character and conduct remain open to debate and free discussion in the press, find their remedies for false accusations in actions under libel laws providing for redress and punishment, and not in proceedings to restrain the publication of newspapers and periodicals. The general principle that the constitutional guaranty of the liberty of the press gives immunity from previous restraints has been

[10]Report on the Virginia Resolutions, Madison's Works, vol. iv, 544.

approved in many decisions under the provisions of state constitutions.[11]

The importance of this immunity has not lessened. While reckless assaults upon public men, and efforts to bring obloquy upon those who are endeavoring faithfully to discharge official duties, exert a baleful influence and deserve the severest condemnation in public opinion, it cannot be said that this abuse is greater, and it is believed to be less, than that which characterized the period in which our institutions took shape. Meanwhile, the administration of government has become more complex, the opportunities for malfeasance and corruption have multiplied, crime has grown to most serious proportions, and the danger of its protection by unfaithful officials and of the impairment of the fundamental security of life and property by criminal alliances and official neglect emphasize the primary need of a vigilant and courageous press, especially in great cities. The fact that the liberty of the press may be abused by miscreant purveyors of scandal does not make any the less necessary the immunity of the press from previous restraint in dealing with official misconduct. Subsequent punishment for such abuses as may exist is the appropriate remedy, consistent with constitutional privilege.

In attempted justification of the statute, it is said that it deals not with publication *per se*, but with the "business" of publishing defamation. If, however, the publisher has a constitutional right to publish, without previous restraint, an edition of his newspaper charging official derelictions, it cannot be denied that he may publish subsequent editions for the same purpose. He does not lose

[11]Dailey *v.* Superior Court, 112 Cal. 94, 98; Jones, Varnum & Co. *v.* Townsend's Admx., 21 Fla. 431, 450; State, ex rel. Laversey *v.* Judge, 34 La. 741, 743; Commonwealth *v.* Blanding, 3 Pick. 304, 313; Lindsay *v.* Montana Federation of Labor, 37 Mont. 264, 275, 277; Howell *v.* Bee Publishing Co., 100 Neb. 39, 42; New Yorker Staats-Zeitung *v.* Nolan, 89 N. J. Eq. 387; Brandreth *v.* Lane, 8 Paige, 24; New York Juvenile Guardian Society *v.* Roosevelt, 7 Daly, 188; Ulster Square Dealer *v* Fowler, 111 N. Y. Supp. 16; Star Co. *v.* Brush, 170 *id.* 987; 172 *id.* 320; 172 *id.* 851; Dopp *v.* Doll, 9 Ohio Dec. Rep. 428; Respublica *v.* Oswald, 1 Dall. 319, 325; Respublica *v.* Dennie, 4 Yeates, 267, 269; Ex parte Neill, 32 Tex. Cr. 275; Mitchell *v.* Grand Lodge, 56 Tex. Civ. App. 306, 309; Sweeney *v.* Baker, 13 W. Va. 158, 182; Citizens Light, Heat & Power Co. *v.* Montgomery Light & Water Co., 171 Fed. 553, 556; Willis *v.* O'Connell, 231 Fed. 1004, 1010; Dearborn Publishing Co. *v.* Fitzgerald, 271 Fed. 479, 485.

his right by exercising it. If his right exists, it may be exercised in publishing nine editions, as in this case, as well as in one edition. If previous restraint is permissible, it may be imposed at once; indeed, the wrong may be as serious in one publication as in several. Characterizing the publication as a business, and the business as a nuisance, does not permit an invasion of the constitutional immunity against restraint. Similarly, it does not matter that the newspaper or periodical is found to be "largely" or "chiefly" devoted to the publication of such derelictions. If the publisher has a right, without previous restraint, to publish them, his right cannot be deemed to be dependent upon his publishing something else, more or less, with the matter to which objection is made.

Nor can it be said that the constitutional freedom from previous restraint is lost because charges are made of derelictions which constitute crimes. With the multiplying provisions of penal codes, and of municipal charters and ordinances carrying penal sanctions, the conduct of public officers is very largely within the purview of criminal statutes. The freedom of the press from previous restraint has never been regarded as limited to such animadversions as lay outside the range of penal enactments. Historically, there is no such limitation; it is inconsistent with the reason which underlies the privilege, as the privilege so limited would be of slight value for the purposes for which it came to be established.

The statute in question cannot be justified by reason of the fact that the publisher is permitted to show, before injunction issues, that the matter published is true and is published with good motives and for justifiable ends. If such a statute, authorizing suppression and injunction on such a basis, is constitutionally valid, it would be equally permissible for the legislature to provide that at any time the publisher of any newspaper could be brought before a court, or even an administrative officer (as the constitutional protection may not be regarded as resting on mere procedural details) and required to produce proof of the truth of his publication, or of what he intended to publish, and of his motives, or stand enjoined. If this can be done, the legislature may provide machinery for determining in the complete exercise of its discretion what are justifiable ends and restrain publication accordingly. And it would be but a step to a complete system of censorship. The recognition of authority to impose previous restraint

upon publication in order to protect the community against the circulation of charges of misconduct, and especially of official misconduct, necessarily would carry with it the admission of the authority of the censor against which the constitutional barrier was erected. The preliminary freedom, by virtue of the very reason for its existence, does not depend, as this Court has said, on proof of truth. *Patterson* v. *Colorado, supra.*

Equally unavailing is the insistence that the statute is designed to prevent the circulation of scandal which tends to disturb the public peace and to provoke assaults and the commission of crime. Charges of reprehensible conduct, and in particular of official malfeasance, unquestionably create a public scandal, but the theory of the constitutional guaranty is that even a more serious public evil would be caused by authority to prevent publication. "To prohibit the intent to excite those unfavorable sentiments against those who administer the Government, is equivalent to a prohibition of the actual excitement of them; and to prohibit the actual excitement of them is equivalent to a prohibition of discussions having that tendency and effect; which, again, is equivalent to a protection of those who administer the Government, if they should at any time deserve the contempt or hatred of the people, against being exposed to it by free animadversions on their characters and conduct."[12] There is nothing new in the fact that charges of reprehensible conduct may create resentment and the disposition to resort to violent means of redress, but this well-understood tendency did not alter the determination to protect the press against censorship and restraint upon publication. As was said in *New Yorker Staats-Zeitung* v. *Nolan*, 89 N. J. Eq., 387, 388: "If the township may prevent the circulation of a newspaper for no reason other than that some of its inhabitants may violently disagree with it, and resent its circulation by resorting to physical violence, there is no limit to what may be prohibited." The danger of violent reactions becomes greater with effective organization of defiant groups resenting exposure, and if this consideration warranted legislative interference with the initial freedom of publication, the constitutional protection would be reduced to a mere form of words.

For these reasons we hold the statute, so far as it authorized the proceedings in this action under clause (b) of section one, to be

[12] Madison, *op. cit.* p. 549.

an infringement of the liberty of the press guaranteed by the Fourteenth Amendment. We should add that this decision rests upon the operation and effect of the statute, without regard to the question of the truth of the charges contained in the particular periodical. The fact that the public officers named in this case, and those associated with the charges of official dereliction, may be deemed to be impeccable, cannot affect the conclusion that the statute imposes an unconstitutional restraint upon publication.

Judgment reversed.

A true copy.

Test:

Clerk, Supreme Court, U. S.

SUPREME COURT OF THE UNITED STATES.

No. 91.—October Term, 1930.

J. M. Near, Appellant,
vs.
The State of Minnesota *ex rel.* Floyd B. Olson, County Attorney of Hennepin County, Minnesota.

Appeal from the Supreme Court of the State of Minnesota.

[June 1, 1931.]

Mr. Justice Butler, dissenting.

The decision of the Court in this case declares Minnesota and every other State powerless to restrain by injunction the business of publishing and circulating among the people malicious, scandalous and defamatory periodicals that in due course of judicial procedure has been adjudged to be a public nuisance. It gives to freedom of the press a meaning and a scope not heretofore recognized and construes "liberty" in the due process clause of the Fourteenth Amendment to put upon the States a federal restriction that is without precedent.

Confessedly, the Federal Constitution prior to 1868, when the Fourteenth Amendment was adopted, did not protect the right of free speech or press against state action. *Barron* v. *Baltimore*, 7 Pet. 243, 250. *Fox* v. *Ohio*, 5 How. 410, 434. *Smith* v. *Maryland*, 18 How. 71, 76. *Withers* v. *Buckley*, 20 How. 84, 89-91. Up to that time the right was safeguarded solely by the constitutions and laws of the States and, it may be added, they operated adequately to protect it. This court was not called on until 1925 to decide whether the "liberty" protected by the Fourteenth Amendment includes the right of free speech and press. That question has been finally answered in the affirmative. Cf. *Patterson* v. *Colorado*, 205 U. S. 454, 462. *Prudential Ins. Co* v. *Cheek*, 259 U. S. 530, 538, 543. See *Gitlow* v. *New York*, 268 U. S. 652. *Fiske* v. *Kansas*, 274 U. S. 380. *Stromberg* v. *California*, 283 U. S. —.

The record shows and it is conceded that defendants' regular business was the publication of malicious, scandalous and de-

famatory articles concerning the principal public officers, leading newspapers of the city, many private persons and the Jewish race. It also shows that it was their purpose at all hazards to continue to carry on the business. In every edition slanderous and defamatory matter predominates to the practical exclusion of all else. Many of the statements are so highly improbable as to compel a finding that they are false. The articles themselves show malice.[1]

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[1]The following articles appear in the last edition published, dated November 19, 1927:

"FACTS NOT THEORIES.

"'I am a bosom friend of Mr. Olson,' snorted a gentleman of Yiddish blood, 'and I want to protest against your article,' and blah, blah, blah, ad infinitum, ad nauseam.

"I am not taking orders from men of Barnett faith, at least right now. There have been too many men in this city and especially those in official life, who HAVE been taking orders and suggestions from JEW GANGSTERS, therefore we HAVE Jew Gangsters, practically ruling Minneapolis.

"It was buzzards of the Barnett stripe who shot down my buddy. It was Barnett gunmen who staged the assault on Samuel Shapiro. It is Jew thugs who have 'pulled' practically every robbery in this city. It was a member of the Barnett gang who shot down George Rubenstein (Ruby) while he stood in the shelter of Mose Barnett's ham-cavern on Hennepin avenue. It was Mose Barnett himself who shot down Roy Rogers on Hennepin avenue. It was at Mose Barnett's place of 'business' that the '13 dollar Jew' found a refuge while the police of New York were combing the country for him. It was a gang of Jew gunmen who boasted that for five hundred dollars they would kill any man in the city. It was Mose Barnett, a Jew, who boasted that he held the chief of police of Minneapolis in his hand—had bought and paid for him.

"It is Jewish men and women—pliant tools of the Jew gangster, Mose Barnett, who stand charged with having falsified the election records and returns in the Third ward. And it is Mose Barnett himself, who, indicted for his part in the Shapiro assault, is a fugitive from justice today.

"Practically every vendor of vile hooch, every owner of a moonshine still, every snake-faced gangster and embryonic yegg in the Twin Cities is a JEW.

"Having these examples before me, I feel that I am justified in my refusal to take orders from a Jew who boasts that he is a 'bosom friend' of Mr. Olson.

"I find in the mail at least twice per week, letters from gentlemen of Jewish faith who advise me against "launching an attack on the Jewish people". These gentlemen have the cart before the horse. I am launching, nor is Mr. Guilford, no attack against any race, BUT:

"When I find men of a certain race banding themselves together for the purpose of preying upon Gentile or Jew; gunmen, KILLERS, roaming our

The defendant here has no standing to assert that the statute is invalid because it might be construed so as to violate the Constitution. His right is limited solely to the inquiry whether, having regard to the points properly raised in his case, the effect of applying the statute is to deprive him of his liberty without due

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streets shooting down men against whom they have no personal grudge (or happen to have); defying OUR laws; corrupting OUR officials; assaulting business men; beating up unarmed citizens; spreading a reign of terror through every walk of life, then I say to you in all sincerity, that I refuse to back up a single step from that 'issue'—if they choose to make it so.

"If the people of Jewish faith in Minneapolis wish to avoid criticism of these vermin whom I rightfully call "Jews" they can easily do so BY THEMSELVES CLEANING HOUSE.

"I'm not out to cleanse Israel of the filth that clings to Israel's skirts. I'm out to 'hew to the line, let the chips fly where they may.'

"I simply state a fact when I say that ninety per cent of the crimes committed against society in this city are committed by Jew gangsters.

"It was a Jew who employed JEWS to shoot down Mr. Guilford. It was a Jew who employed a Jew to intimidate Mr. Shapiro and a Jew who employed JEWS to assault that gentleman when he refused to yield to their threats. It was a JEW who wheedled or employed Jews to manipulate the election records and returns in the Third ward in flagrant violation of law. It was a Jew who left two hundred dollars with another Jew to pay to our chief of police just before the last municipal election, and:

"It is Jew, Jew, Jew, as long as one cares to comb over the records.

"I am launching no attack against the Jewish people AS A RACE. I am merely calling attention to a FACT. And if the people of that race and faith wish to rid themselves of the odium and stigma THE BODENTS OF THEIR OWN RACE HAVE BROUGHT UPON THEM, they need only to step to the front and help the decent citizens of Minneapolis rid the city of these criminal Jews.

"Either Mr. Guilford or myself stand ready to do battle for a MAN, regardless of his race, color or creed, but neither of us will step one inch out of our chosen path to avoid a fight IF the Jews want to battle.

"Both of us have some mighty loyal friends among the Jewish people but not one of them comes whining to ask that we 'lay off' criticism of Jewish gangsters and none of them who comes carping to us of their 'bosom friendship' for any public official now under our journalistic guns."

"GIL'S [Guilford's] CHATTERBOX.

"I headed into the city on September 26th, ran across three Jews in a Chevrolet; stopped a lot of lead and won a bed for myself in St. Barnabas Hospital for six weeks. . . .

"Whereupon I have withdrawn all allegiance to anything with a hook nose that eats herring. I have adopted the sparrow as my national bird until Davis' law enforcement league or the K. K. K. hammers the eagle's beak

process of law. This court should not reverse the judgment below upon the ground that in some other case the statute may be applied in a way that is repugnant to the freedom of the press protected by the Fourteenth Amendment. *Castillo* v. *McConnico*, 168 U. S. 674, 680. *Williams* v. *Mississippi*, 170 U. S. 213, 225. *Yazoo & Miss. R. R.* v. *Jackson Vinegar Co.*, 226 U. S. 217, 219-220. *Plymouth Coal Co.* v. *Pennsylvania*, 232 U. S. 531, 544-546.

This record requires the Court to consider the statute as applied to the business of publishing articles that are in fact malicious, scandalous and defamatory.

The statute provides that any person who "shall be engaged in the business of regularly or customarily producing, publishing or circulating" a newspaper, magazine or other periodical that is (a) "obscene, lewd and lascivious" or (b) "malicious, scandalous and defamatory" is guilty of a nuisance and may be enjoined as provided in the Act. It will be observed that the qualifying words are used conjunctively. In actions brought under (b) "there shall be available the defense that the truth was published with good motives and for justifiable ends."

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out straight. So if I seem to act crazy as I ankle down the street, bear in mind that I am merely saluting MY national emblem.

"All of which has nothing to do with the present whereabouts of Big Mose Barnett. Methinks he headed the local delegation to the new Palestine-for-Jews-only. He went ahead of the boys so he could do a little fixing with the Yiddish chief of police and get his twenty-five per cent of the gambling rake-off. Boys will be boys and 'ganefs' will be ganefs."

"GRAND JURIES AND DITTO.

"There are grand juries, and there are grand juries. The last one was a real grand jury. It acted. The present one is like the scion who is labelled 'Junior'. That means not so good. There are a few mighty good folks on it—there are some who smell bad. One petty peanut politician whose graft was almost pitiful in its size when he was a public official, has already shot his mouth off in several places. He is establishing his alibi in advance for what he intends to keep from taking place.

"But George, we won't bother you. [Meaning a grand juror.] We are aware that the gambling syndicate was waiting for your body to convene before the big crap game opened again. The Yids had your dimensions, apparently, and we always go by the judgment of a dog in appraising people.

"We will call for a special grand jury and a special prosecutor within a short time, as soon as half of the staff can navigate to advantage, and then we'll show you what a real grand jury can do. Up to the present we have been merely tapping on the window. Very soon we shall start smashing glass."

The complaint charges that defendants were engaged in the business of regularly and customarily publishing "malicious, scandalous and defamatory newspapers" known as the Saturday Press, and nine editions dated respectively on each Saturday commencing September 25 and ending November 19, 1927, were made a part of the complaint. These are all that were published.

On appeal from the order of the district court overruling defendants' demurrer to the complaint the state supreme court said (174 Minn. 457, 461):

> "The constituent elements of the declared nuisance are the customary and regular dissemination by means of a newspaper which finds its way into families, reaching the young as well as the mature, of a selection of scandalous and defamatory articles treated in such a way as to excite attention and interest so as to command circulation. . . . The statute is not directed at threatened libel but at an existing business which, generally speaking, involves more than libel. The distribution of scandalous matter is detrimental to public morals and to the general welfare. It tends to disturb the peace of the community. Being defamatory and malicious, it tends to provoke assaults and the commission of crime. It has no concern with the publication of the truth, with good motives and for justifiable ends. . . . In Minnesota no agency can hush the sincere and honest voice of the press; but our constitution was never intended to protect malice, scandal and defamation when untrue or published with bad motives or without justifiable ends. . . . It was never the intention of the constitution to afford protection to a publication devoted to scandal and defamation. . . . Defendants stand before us upon the record as being regularly and customarily engaged in a business of conducting a newspaper sending to the public malicious, scandalous and defamatory printed matter."

The case was remanded to the district court.

Near's answer made no allegations to excuse or justify the business or the articles complained of. It formally denied that the publications were malicious, scandalous or defamatory, admitted that they were made as alleged, and attacked the statute as unconstitutional. At the trial the plaintiff introduced evidence unquestionably sufficient to support the complaint. The defendant offered none. The court found the facts as alleged in the complaint and specifically that each edition "was chiefly devoted to malicious, scandalous and defamatory articles" and that the last edition was chiefly devoted to malicious, scandalous and defamatory articles concerning

Leach (mayor of Minneapolis), Davis (representative of the law enforcement league of citizens), Brunskill (chief of police), Olson (county attorney), the Jewish race and members of the grand jury then serving in that court; that defendants in and through the several publications "did thereby engage in the business of regularly and customarily producing, publishing and circulating a malicious, scandalous and defamatory newspaper".

Defendant Near again appealed to the supreme court. In its opinion (179 Minn. 40) the court said: "No claim is advanced that the method and character of the operation of the newspaper in question was not a nuisance if the statute is constitutional. It was regularly and customarily devoted largely to malicious, scandalous and defamatory matter. . . . The record presents the same questions, upon which we have already passed."

Defendant concedes that the editions of the newspaper complained of are "defamatory *per se*". And he says: "It has been asserted that the constitution was never intended to be a shield for malice, scandal, and defamation when untrue, or published with bad motives, or for unjustifiable ends. . . . The contrary is true; every person *does* have a constitutional right to publish malicious, scandalous, and defamatory matter though untrue, and with bad motives, and for unjustifiable ends, *in the first instance*, though he is subject to responsibility therefor *afterwards*." The record, when the substance of the articles is regarded, requires that concession here. And this Court is required to pass on the validity of the state law on that basis.

No question was raised below and there is none here concerning the relevancy or weight of evidence, burden of proof, justification or other matters of defense, the scope of the judgment or proceedings to enforce it or the character of the publications that may be made notwithstanding the injunction.

There is no basis for the suggestion that defendants may not interpose any defense or introduce any evidence that would be open to them in a libel case or that malice may not be negatived by showing that the publication was made in good faith in belief of its truth or that at the time and under the circumstances it was justified as a fair comment on public affairs or upon the conduct of public officers in respect of their duties as such. See Mason's Minnesota Statutes, §§ 10112, 10113.

The scope of the judgment is not reviewable here. The opinion of the state supreme court shows that it was not reviewable there because defendants' assignments of error in that court did not go to the form of the judgment and because the lower court had not been asked to modify the judgment.

The Act was passed in the exertion of the State's power of police, and this court is by well established rule required to assume, until the contrary is clearly made to appear, that there exists in Minnesota a state of affairs that justifies this measure for the preservation of the peace and good order of the State. *Lindsley* v. *Natural Carbonic Gas Co.*, 220 U. S. 61, 79. *Gitlow* v. *New York*, *supra*, 668-669. *Corporation Commission* v. *Lowe*, 281 U. S. 431, 438. *O'Gorman & Young* v. *Hartford Ins. Co.*, 282 U. S. 251, 257-258.

The publications themselves disclose the need and propriety of the legislation. They show:

In 1913 one Guilford, originally a defendant in this suit, commenced the publication of a scandal sheet called the Twin City Reporter; in 1916 Near joined him in the enterprise, later bought him out and engaged the services of one Bevans. In 1919 Bevans acquired Near's interest, and has since, alone or with others, continued the publication. Defendants admit that they published some reprehensible articles in the Twin City Reporter, deny that they personally used it for blackmailing purposes, admit that by reason of their connection with the paper their reputation did become tainted and state that Bevans, while so associated with Near, did use the paper for blackmailing purposes. And Near says it was for that reason he sold his interest to Bevans.

In a number of the editions defendants charge that, ever since Near sold his interest to Bevans in 1919, the Twin City Reporter has been used for blackmail, to dominate public gambling and other criminal activities and as well to exert a kind of control over public officers and the government of the city.

The articles in question also state that, when defendants announced their intention to publish the Saturday Press, they were threatened and that soon after the first publication Guilford was waylaid and shot down before he could use the firearm which he had at hand for the purpose of defending himself against anticipated assaults. It also appears that Near apprehended violence and was not unprepared to repel it. There is much more of like significance.

The long criminal career of the Twin City Reporter—if it is in fact as described by defendants—and the arming and shooting arising out of the publication of the Saturday Press serve to illustrate the kind of conditions in respect of the business of publishing malicious, scandalous and defamatory periodicals by which the state legislature presumably was moved to enact the law in question. It must be deemed appropriate to deal with conditions existing in Minnesota.

It is of the greatest importance that the States shall be untrammeled and free to employ all just and appropriate measures to prevent abuses of the liberty of the press.

In his work on the Constitution (5th ed.) Justice Story, expounding the First Amendment which declares: "Congress shall make no law abridging the freedom of speech or of the press" said (§ 1880):

> "That this amendment was intended to secure to every citizen an absolute right to speak, or write, or print whatever he might please, without any responsibility, public or private, therefor, is a supposition too wild to be indulged by any rational man. This would be to allow to every citizen a right to destroy at his pleasure the reputation, the peace, the property, and even the personal safety of every other citizen. A man might, out of mere malice and revenge, accuse another of the most infamous crimes; might excite against him the indignation of all his fellow-citizens by the most atrocious calumnies; might disturb, nay, overturn, all his domestic peace, and embitter his parental affections; might inflict the most distressing punishments upon the weak, the timid, and the innocent; might prejudice all a man's civil, and political, and private rights; and might stir up sedition, rebellion, and treason even against the government itself, in the wantonness of his passions or the corruption of his heart. Civil society could not go on under such circumstances. Men would then be obliged to resort to private vengeance to make up for the deficiencies of the law; and assassination and savage cruelties would be perpetrated with all the frequency belonging to barbarous and brutal communities. It is plain, then, that the language of this amendment imports no more than that every man shall have a right to speak, write, and print his opinions upon any subject whatsoever, without any prior restraint, so always that he does not injure any other person in his rights, person, property, or reputation; and so always that he does not thereby disturb the public peace, or attempt to subvert the government. It is neither more nor less than an expansion of the great doctrine recently brought into operation in the law of

libel, *that every man shall be at liberty to publish what is true, with good motives and for justifiable ends.* And with this reasonable limitation it is not only right in itself, but it is an inestimable privilege in a free government. Without such a limitation, it might become the scourge of the republic, first denouncing the principles of liberty, and then, by rendering the most virtuous patriots odious through the terrors of the press, introducing despotism in its worst form." (Italicizing added.)

The Court quotes Blackstone in support of its condemnation of the statute as imposing a previous restraint upon publication. But the *previous restraints* referred to by him subjected the press to the arbitrary will of an administrative officer. He describes the practice (Book IV, p. 152): "To subject the press to the restrictive power of a licenser, as was formerly done, both before and since the revolution, [of 1688] is to subject all freedom of sentiment to the prejudices of one man, and make him the arbitrary and infallible judge of all controverted points in learning, religion, and government."[2]

Story gives the history alluded to by Blackstone (§ 1882):

"The art of printing soon after its introduction, we are told, was looked upon, as well in England as in other countries, as merely a matter of state, and subject to the coercion of the crown. It was, therefore, regulated in England by the king's proclamations, prohibitions, charters of privilege, and licenses, and finally by the decrees of the Court of Star-Chamber, which limited the number of printers and of presses which each should employ, and prohibited new publications, unless previously approved by proper licensers. On the demolition of this odious jurisdiction, in 1641, the Long Parliament of Charles the First, after their rupture with that prince, assumed the same powers which the Star-Chamber exercised with respect to licensing books; and during the Commonwealth (such is human frailty and the love of power even in republics!) they issued their ordinances for that purpose, founded principally upon a Star-Chamber decree of 1637. After the

[2]May, Constitutional History of England, c. IX. Duniway, Freedom of the Press in Massachusetts, cc. I and II. Cooley, Constitutional Limitations (8th ed.) Vol. II, pp. 880-881. Pound, Equitable Relief against Defamation, 29 Harv. L. Rev. 640, 650 et seq. Madison, Letters and Other Writings (1865 ed.) Vol. IV, pp. 542, 543. Respublica v. Oswald, 1 Dall. 343, 349. Rawle, A View of the Constitution (2d ed. 1829) p. 124. Paterson, Liberty of the Press, c. III.

restoration of Charles the Second, a statute on the same subject was passed, copied, with some few alterations, from the parliamentary ordinances. The act expired in 1679, and was revived and continued for a few years after the revolution of 1688. Many attempts were made by the government to keep it in force; but it was so strongly resisted by Parliament that it expired in 1694, and has never since been revived."

It is plain that Blackstone taught that under the common law liberty of the press means simply the absence of restraint upon publication in advance as distinguished from liability, civil or criminal, for libelous or improper matter so published. And, as above shown, Story defined freedom of the press guaranteed by the First Amendment to mean that "every man shall be at liberty to publish what is true, with good motives and for justifiable ends." His statement concerned the definite declaration of the First Amendment. It is not suggested that the freedom of press included in the liberty protected by the Fourteenth Amendment, which was adopted after Story's definition, is greater than that protected against congressional action. And see 2 Cooley's Constitutional Limitations, 8th ed., p. 886. 2 Kent's Commentaries (14th ed.) Lect. XXIV, p. 17.

The Minnesota statute does not operate as a *previous* restraint on publication within the proper meaning of that phrase. It does not authorize administrative control in advance such as was formerly exercised by the licensers and censors but prescribes a remedy to be enforced by a suit in equity. In this case there was previous publication made in the course of the business of regularly producing malicious, scandalous and defamatory periodicals. The business and publications unquestionably constitute an abuse of the right of free press. The statute denounces the things done as a nuisance on the ground, as stated by the state supreme court, that they threaten morals, peace and good order. There is no question of the power of the State to denounce such transgressions. The restraint authorized is only in respect of continuing to do what has been duly adjudged to constitute a nuisance. The controlling words are "All persons guilty of such nuisance may be enjoined, as hereinafter provided. . . . Whenever any such nuisance is committed . . . an action in the name of the State" may be brought "to perpetually enjoin the person or persons committing, conducting or maintaining any such nuisance, *from further committing, conducting or maintaining any such nuisance.* . . .

The court may make its order and judgment permanently enjoining . . . defendants found guilty . . . from committing or continuing the acts prohibited hereby, and in and by such judgment, such nuisance may be wholly abated. . . ." There is nothing in the statute[1] purporting to prohibit publications that have not been adjudged to constitute a nuisance. It is fanciful to suggest similarity between the granting or enforcement of the decree authorized by this statute to prevent *further* publication of malicious, scandalous and defamatory articles and the *previous*

[1] §1. Any person who, as an individual, or as a member or employee of a firm, or association or organization, or as an officer, director, member or employee of a corporation, shall be engaged in the business of regularly or customarily producing, publishing or circulating, having in possession, selling or giving away.

(a) an obscene, lewd and lasciwious newspaper, magazine, or other periodical, or

(b) a malicious, scandalous and defamatory newspaper, magazine or other periodical,

is guilty of a nuisance, and all persons guilty of such nuisance may be enjoined, as hereinafter provided.

. . . .

In actions brought under (b) above, there shall be available the defense that the truth was published with good motives and for justifiable ends and in such actions the plaintiff shall not have the right to report [resort] to issues or editions of periodicals taking place more than three months before the commencement of the action.

§2. Whenever any such nuisance is committed or is kept, maintained, or exists, as above provided, or, the County Attorney of any county where any such periodical is published or circulated . . . may commence and maintain in the District Court of said county, an action in the name of the State of Minnesota . . . to perpetually enjoin the person or persons committing, conducting or maintaining any such nuisance, from further committing, conducting, or maintaining any such nuisance. . . .

§3. The action may be brought to trial and tried as in the case of other actions in such District Court, and shall be governed by the practice and procedure applicable to civil actions for injunctions.

After trial the court may make its order and judgment permanently enjoining any and all defendants found guilty of violating this Act from further committing or continuing the acts prohibited hereby, and in and by such judgment, such nuisance may be wholly abated.

The court may, as in other cases of contempt, at any time punish, by fine of not more than $1,000, or by imprisonment in the county jail for not more than twelve months, any person or persons violating any injunction, temporary or permanent, made or issued pursuant to this Act.

restraint upon the press by licensers as referred to by Blackstone and described in the history of the times to which he alludes.

The opinion seems to concede that under clause (a) of the Minnesota law the business of regularly publishing and circulating an obscene periodical may be enjoined as a nuisance. It is difficult to perceive any distinction, having any relation to constitutionality, between clause (a) and clause (b) under which this action was brought. Both nuisances are offensive to morals, order and good government. As that resulting from lewd publications constitutionally may be enjoined it is hard to understand why the one resulting from a regular business of malicious defamation may not.

It is well known, as found by the state supreme court, that existing libel laws are inadequate effectively to suppress evils resulting from the kind of business and publications that are shown in this case. The doctrine that measures such as the one before us are invalid because they operate as previous restraints to infringe freedom of press exposes the peace and good order of every community and the business and private affairs of every individual to the constant and protracted false and malicious assaults of any insolvent publisher who may have purpose and sufficient capacity to contrive and put into effect a scheme or program for oppression, blackmail or extortion.

The judgment should be affirmed.

Mr. Justice Van Devanter, Mr. Justice McReynolds and Mr. Justice Sutherland concur in this opinion.